UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/94/Add.1
20 January 1995

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Third periodic reports of States parties due in 1994

Addendum

CYPRUS*

[28 December 1994]

* For the initial report submitted by the Government of Cyprus, see CCPR/C/1/Add.6, and for the first part of its consideration see CCPR/C/SR.27 and SR.28, or Official Records of the General Assembly, Thirty-second session, Supplement No. 44 (A/32/44), paragraphs 116 to 118. For the supplementary report containing additional information submitted in reply to questions posed by the Committee, see document CCPR/C/1/Add.28. For the continuation of the consideration of the initial report and the consideration of the supplementary report, see CCPR/C/SR.165 and SR.166, or Official Records of the General Assembly, Thirty-fourth session, Supplement No. 40 (A/34/40), paragraphs 372 to 389. For the second periodic report of Cyprus, see CCPR/C/32/Add.18; for its consideration by the Committee, see CCPR/C/SR.1333 to SR.1335 as well as Official Records of the General Assembly, Forty-ninth session, Supplement No. 40 (A/49/40) paragraphs 312 to 333.

GE.95-18627 (E)

CONTENTS

		Paragraphs	Page
	Introduction	1 - 11	3
I.	GENERAL	12 - 41	4
II.	IMPLEMENTATION OF SPECIAL ARTICLES OF THE COVENANT	42 - 300	9
	Article 1 - Self-determination	42 - 45	9
	Article 2 - Elimination of discrimination	46 - 56	10
	Article 3 - Equality	57 - 68	13
	Article 4 - Derogation during a state of emergency	69 - 74	17
	Article 5 - Restrictions of rights and freedoms	75	18
	Article 6 - Right to life	76 - 85	18
	Article 7 - Torture	86 - 99	21
	Article 8 - Prohibition of slavery	100	24
	Article 9 - Liberty, detention, arrest	101 - 115	24
	Article 10 - Humane treatment of detainees	116 - 120	27
	Article 11 - Imprisonment for inability to pay civil debt	121 - 122	28
	Article 12 - Freedom of movement	123	29
	Article 13 - Aliens	124 - 181	29
	Article 14 - Right to a fair trial	182 - 211	43
	Article 15 - Retroactive punishment	212	48
	Article 16 - Recognition as a person before the law	213	48
	Article 17 - Privacy	214 - 226	48
	Article 18 - Freedom of religion	227 - 230	51
	Article 19 - Freedom of expression	231 - 239	52
	Article 20 - War propaganda	240	54
	Article 21 - Freedom of assembly	241 - 244	54
	Article 22 - Freedom of association	245	55
	Article 23 - Freedom to marry	246 - 249	55
	Article 24 - Children	250 - 296	55
	Article 25 - Right to participate in public office, right to vote and right to have access to public service	297 - 298	67
	Article 26 - Equality before the law	299	67
	Article 27 - Protection of minors	300	67
III.	CONCLUSION	301 - 302	68

Introduction

1. Most of the civil and political rights embodied in the International Covenant are adequately safeguarded by the Constitution of Cyprus, Part II, on Fundamental Rights and Liberties. Under the Treaty of Establishment of the Republic of Cyprus, article 5, it is provided that the Republic of Cyprus "shall secure to everyone within its jurisdiction human rights and fundamental freedoms comparable to those set out in Section 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on the 4th of November 1950, and the Protocol to that Convention signed at Paris on the 20th March 1952".

2. The Rome Convention and the Protocol have served as the prototypes for drafting the relevant provisions in the Cyprus Constitution. The Republic of Cyprus ratified the Rcme Convention and its First Protocol in 1962 by means of the European Convention on Human Rights (Ratification) Law (Law No. 39 of 1962). By virtue of such ratification, and by virtue of the provisions of article 169 (3) of the Constitution, the actual provisions of the Rome Convention and its First Protocol have superior force to any municipal law in Cyprus; thus, these provisions have become part of the law of Cyprus alongside the Fundamental Rights and Liberties provisions in Part II of the Constitution.

3. The Covenant has been ratified by Law No. 14 of 1969 of the Republic of Cyprus and forms part of the municipal law of Cyprus having superior force to any other municipal law (Art. 169 (3) of the Constitution).

4. The States parties to the Covenant have an obligation under article 40 of the Covenant to submit reports to the Human Rights Committee on the measures they have adopted which give effect to the rights recognized in the Covenant and on the progress made in the enjoyment of those rights.

5. Under article 40, paragraph 1(a), of the Covenant the initial report must be submitted by the States parties within one year of the entry into force of the Covenant. The Covenant entered into force on 23 March 1976, in accordance with article 49.

6. Following the consideration of the initial report, subsequent reports must also be submitted whenever the Committee so requests (art. 40, para. 1(b) of the Covenant). Following the entry into force of this Covenant, the Human Rights Committee, at its thirteenth session, held at Geneva from 13 to 31 July 1981, adopted a decision on periodicity providing for the submission by States parties of subsequent reports. According to this decision, States parties must submit subsequent reports every five years following the consideration of the initial report. However, the power of the Committee, under article 40, paragraph 1(b) of the Covenant, to request a subsequent report whenever it deems appropriate, is not prejudiced by this decision.

7. The initial report of the Republic of Cyprus was considered at the Committee's seventh session, held from 30 July to 17 August 1979. Hence, the second and third periodic reports were due on 18 August 1984 and 18 August 1989, respectively.

8. The second periodic report of the Republic was considered at the Committee's fifty-first session, held from 4 to 29 July 1994. At the conclusion of the consideration of the second periodic report, the Committee decided to extend the deadline for the submission of the third periodic report to 31 December 1994.

9. The Human Rights Committee, in the light of its experience in the consideration of the initial report, issued detailed guidelines for the preparation of periodic reports. The guidelines provide, inter alia, that in drafting subsequent reports, States parties should take into account questions raised in the Committee on the examination of the previous report, the general comments which the Committee may have made under article 40, paragraph 4, of the Covenant, as well as recommendations and suggestions made by the Committee.

10. In preparing the third periodic report, the Committee for International Conventions, chaired by the Law Commissioner, took into account the comments adopted by the Human Rights Committee after having considered the second periodic reports of Cyprus.

11. The third periodic report of the Republic of Cyprus was submitted to the Human Rights Committee for consideration on 12 December 1994.

I. GENERAL

12. The second periodic report of the Republic of Cyprus was submitted on 14 July 1993 and it was considered by the Human Rights Committee on 13 and 14 July 1994 at its fifty-first session along with a document containing supplementary provisions prepared and submitted by the Cyprus delegation.

13. The Cyprus delegation submitted to the Human Rights Committee written answers to the issues contained in a list prepared by the Committee and further responded to a number of questions and issues raised during the consideration of the report.

14. The third periodic report contains:

(a) Supplementary information already included in the second periodic report;

(b) Revised information regarding matters included in the document containing supplementary information submitted to and considered by the Committee;

(c) Information connected with questions and issues raised during the consideration of the second periodic report;

(d) Information regarding developments which occurred after the submission and the consideration of the second periodic report;

(e) Information regarding steps which have been taken or are contemplated in connection with suggestions made by the Committee;

(f) Any other information necessary for updating the previous report.

15. The third periodic report has been prepared by the Law Commissioner in cooperation with representatives from the various Ministries dealing with the topics contained in the report, representatives of the Attorney-General, of the Commissioner for Administration and other Departments and Services.

16. The third periodic report will be given wider publicity and dissemination than the second periodic report.

17. It should be mentioned that the second periodic report was sent to the following: Supreme Court, Attorney-General, Chairman of the Commission for Legal Affairs of the House of Representatives, Cyprus Bar Association, Commissioner for the Administration, Cyprus University, Ministry of Foreign Affairs, Ministry of Justice and Public Order, Ministry of Labour and Social Insurance, Ministry of Education and Culture, the non-governmental organizations, International Association for the Protection of Human Rights, Pancyprian Human Rights Association and Committee for the Protection of Human Rights, Cyprus Law Tribune, State Archives, Presidential Commissioner for Humanitarian Affairs.

18. Following the examination of the second periodic report, the following steps have been taken (in connection with the recommendations of the Committee):

19. Death sentence. The Law Commissioner, in cooperation with the Ministry of Justice and Public Order, prepared a draft bill for the abolition of the death sentence in all cases except for the offence of treason under the Military Criminal Code and Procedure when committed during wartime. Following this Cyprus will ratify the Sixth Protocol to the European Convention on Human Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights. Bills have already been prepared for their ratification.

20. Conscientious objectors. The Law Commissioner has made a proposal for the amendment of the National Guard Laws (1964-1992) so as to afford the genuine conscientious objector the right to be subjected to non-military service for a period longer than the normal military service. Such longer period would not be of a punitive nature. (For further information see para. 230.)

21. Imprisonment for civil debt. A Committee has been set up to study the matter and find alternative modes of execution so as to render unnecessary the imprisonment for refusal to pay a civil debt. (For further information see para. 19.)

22. Political asylum. A proposal is under consideration for the setting up of a body for reviewing decisions regarding the refusal of political asylum. (For further information see para. 20.13.)

23. Immigration Law. This Law is under review by a committee chaired by the Law Commissioner. (For further information see paras. 20.9.3 and 20.9.4.)

24. Citizenship Law. The Committee which was set up for reviewing the Immigration Law has further considered certain provisions of the law which discriminate between men and women. (For further information see para. 20.9.2.)

25. Assemblies and processions. The whole part II of the Criminal Code, Cap. 154 entitled "Offences against public order" is under review at the instigation of the Ministry of Justice and Public Order. Of particular concern are the sections relating to treason, seditious conspiracies and publications, unlawful assemblies and the powers of the authorities in dealing with dispersion of such assemblies. A Committee has been set up to review the above provision and it had its first meeting on 17 October 1994. Meanwhile the Law Commissioner prepared a bill for the repeal and substitution of the Assemblies and Processions Law, Cap. 32. (For further information see para. 26).

26. Prevention of torture. A recent law proposal was put forward by a member of the parliament for the enactment of a law entitled "Law which provides for the Prevention of Torture and Punishment of Inhuman or Degrading Treatment". The provisions of the law proposal incorporate to a large degree the recommendations and conclusions of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment which has been established under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. In particular, it contains provisions for the protection of the rights of the detainees including, inter alia, provisions for proper and safe places of detention, safeguards for the conduct of interrogation and for the setting up of a Committee for the Prevention of Torture and Punishment of Inhuman or Degrading Treatment. The matter was referred by the Mnister of Justice and Public Order to the Law Commissioner and the Attorney-General for their views. A small committee was accordingly set up and after having considered the matter, a memorandum was prepared and submitted to the Minister of Justice and Public Order for further steps.

27. Status of treaties. The status of the treaties in relation to the Constitution and the national legislation was the subject of major concern to the Human Rights Committee when considering the second periodic report of the Republic of Cyprus. In particular, questions were raised as to certain provisions of the Constitution which were at variance with provisions in the Covenant. Also, questions were being asked as to whether the principle of reciprocity referred to in article 169 (3) of the Constitution applies to multilateral treaties. The delegation of Cyprus took upon itself the duty to look into the matter and if necessary to suggest the enactment of a law regulating all matters pertaining to treaties, their status, interpretation and their implementation.

28. In consequence of the above, the Law Commissioner prepared a draft bill entitled "The International Treaties Law" which has been sent to the appropriate Ministries, to the Attorney-General and the President of the Supreme Court for their views. The bill contains provisions of a very sensitive nature and it has to be discussed at the highest level before it is approved for further action.

29. The bill in its present form contains the following provisions (with reference to the titles as arranged in the bill):

(a) Short title - "The International Treaties Law",

(b) Interpretation;

(c) Establishment of Council for Treaties;

(d) Functions of Council:

(e) Appointment of advisers;

(f) Self-executing provisions;

(g) Force of old treaties;

(h) Effect of repeal of ratifying laws;

(i) Penalties;

(j) Repeal of laws or acts enacted under or done under the Law of Necessity;

(k) Effect of treaties on the Constitution;

(l) Reciprocity regarding multilateral treaties;

(m) Bilateral treaties and change of the regime of the State parties;

(n) Regulations;

(o) Rules.

30. Under section 3 of the bill, a Council is constituted consisting of a Chairman and five members. The Chairman is appointed by the Council of Ministers and should possess the same qualifications as those required for the appointment of judges of the Supreme Court. The members are the Attorney-General or his representative, the Commissioner for Administration or his representative, the Minister of Foreign Affairs or his representative and the Minister of Justice and Public Order or his representative. Among the functions of the Council will be making recommendations for amending Cyprus legislation for the purpose of implementing treaties, identifying anomalies in the legislation, recommending that certain provisions in the treaties be declared self-executing (under sect. 6 of the Law), and collecting, classifying and publishing all provisions contained in treaties which are being considered by the courts as self-executing.

31. Under section 6 self-executing provisions are defined and a machinery is set up for the declaration by the Council of Ministers of certain provisions as being self-executing.

32. Under article 11 it is clarified that the Constitution is subject to amplification by the ratification of international conventions and when this is done there can be no reversion to the constitutional provisions as they stood prior to the amplification.

33. Under article 12 it is clarified that the condition of reciprocity referred to in article 169 (3) of the Constitution does not apply to multilateral treaties.

34. Just before the submissions of this report, it was reported that the Attorney-General and the Minister of Foreign Affairs were in favour of the ideas contained in the bill.

35. A not so recent development is the ratification of the Optional Protocol to the International Covenant on Civil and Political Rights by enacting Law No. 17 (III) of 1992. By the ratification of this Protocol the Republic of Cyprus recognizes the competence of the Human Rights Committee set up in Part IV of the Covenant to receive and consider communications from individuals claiming to be victims of a violation of any of the rights set out in the Covenant.

36. The public officers are expected to be familiar with the substantive legislation of the country and the international conventions which, as already mentioned, form part of the Municipal Law and as such are published in the Official Gazette of the Republic. However, in order to make certain that public officers are actually cognizant of the contents of the Covenant and other international conventions, the Personnel Department is planning to include in the new curriculum for education and retraining of public officers the subject of international conventions with emphasis on those relating to the rights of the citizens. Also, seminars and lectures are scheduled for the near future.

37. Finally, it is worth mentioning that there is an additional safeguard against an indiscretion by the executive authority which is the exercise of control by the House of Representatives. The House of Representatives may, under article 73.1 of the Constitution, regulate any matter of parliamentary procedure and of the functions of its offices. In 1980, the House issued standing orders regulating the functions of its standing committees which can inquire into any matter not necessarily associated with legislative bills or proposals. In 1985 a law was enacted regulating the submission of particulars and information to the House of Representatives and the Standing Committees (Submission of Particulars and Information to the House of Representatives and the Standing Committees Law of 1985 (Law No. 21 of 1985)).

38. Under this Law the Standing Committees of the House of Representatives have power to ask for the submission before them of written or verbal information by the public services of the Republic, public or private corporations and any private individual which in their opinion is necessary for the performance of their functions in investigating any matter within their jurisdiction.

39. Persons called to submit information and particulars before any Standing Committees are bound to do so but they are not bound to give information or particulars on certain matters which may be self-incriminatory or are likely to cause to them real or moral injury or are likely to violate a code of professional ethics or are likely to be injurious to the interest of the Republic on matters of defence and foreign relations.

40. The House may refer any matter for investigation either by the Attorney-General or by a specially constituted Investigating Committee.

41. Annexes. In the report extended reference is made to a number of laws enacted by the Republic relating to the protection and respect of human rights. Some of these laws are entirely and directly relating to the protection and respect of human rights. Others contain only a few provisions, the main part dealing with unrelated matters. The drafters of the report considered it appropriate to submit as annexes to the report, in addition to the text of the legislative instrument as originally enacted, an English translation of the relevant parts or a comprehensive description of the enactment, thus giving a good picture of the object, reasons and provisions of the enactment. A number of bills are also included. Some of such bills were translated into English.

II. IMPLEMENTATION OF SPECIFIC ARTICLES OF THE COVENANT

Article 1 - Self-determination

42. In Cyprus democratic elections are held enabling its people to determine their political status and to pursue in a free manner their economic, social and cultural development.

43. In addition to the election of President of the Republic and the election of representatives for the House of Representatives there are free elections for chairpersons of authorities for local administration.

44. The authorities for local administration are the municipalities, the improvement boards and the village commissions. A town is divided in quarters and for each quarter there is a commission. The municipal elections are conducted every five years for the election of the mayor and the members of the municipal commissions. The members of the municipal commission vary in number according to the population of the municipal area. There are six members for areas with not more than 8,000 people and 26 for areas with more than 45,000 people. The right to elect is accorded to every resident of the municipal area who is of the age of 18 years. The exercise of the right to elect is compulsory. The law in force regulating municipalities is the Municipal Law of 1985 (No. 111 of 1985).

45. The elections are conducted freely and in an orderly manner. In the law there is provision for the creation of new municipalities. The last elections of existing municipalities were conducted on 22 December 1991 and there were no objections or complaints about the manner in which they were conducted. In April 1994 there were elections for members of newly constituted municipalities which again were conducted in an orderly manner without any incidents and without objections. (See also para. 297.)

Article 2 - Elimination of discrimination

46. A recent legislative development regarding acts amounting to incitement to discrimination, hostility, hatred and violence on account of ethnic or racial origin or for religious reasons is the enactment of Law No. 11 (III) of 1992 which amended the Convention on the Elimination of All Forms of Racial Discrimination (Ratification) Law of 1967 (No. 13 of 1967). The ratifying law is amended by the addition of a new section whereby a number of offences are created relating to acts amounting to racial discrimination. The new section (section 2A) reads as follows:

> "Offences 2A. (1) Any person who in public either orally or through the press or any document or picture or by any other means, intentionally incites acts or activities which are likely to cause discrimination, hatred or violence against any person or group of persons by reason only of their racial or ethnic origin or their religion is guilty of an offence and is liable to imprisonment not exceeding two years or to a fine not exceeding one thousand pounds or to both.
>
> (2) Any person who establishes or participates in any organization which promotes organized propaganda or activities of any form aiming at racial discrimination is guilty of an offence and is liable to the punishments provided in subsection (1).
>
> (3) Any person who in public either orally or through the press or any documents or pictures or by any other means expresses ideas insulting against any person or group of persons by reason of their racial or ethnic origin or their religion is guilty of an offence and is liable to imprisonment not exceeding one year or to a fine not exceeding five hundred pounds or to both.
>
> (4) Any person who by profession supplies goods or services and who refuses to any person such supply by reason only of his racial or ethnic origin or his religion or makes such supply subject to a term relating to the racial or ethnic origin or to the religion of anybody is guilty of an offence and is liable to imprisonment not exceeding one year or to a fine not exceeding four hundred pounds or to both such punishments."

47. Any citizen of the Republic may be appointed a government minister or be a candidate for election as President of the Republic or as a member of the House of Representatives provided he possesses the required qualifications.

48. The elections in Cyprus are direct, by universal suffrage and by secret ballot. The right to vote and stand for election without any discrimination on the ground of ethnic origin or any other ground is safeguarded by law.

49. Any citizen of the Republic can also be appointed to the public service if he possesses the relevant qualifications that are required by the public service laws and the relevant schemes of service (which are now submitted for approval to the House of Representatives and are published in the Official Gazette).

Religious minorities

50. In Cyprus there are, in addition to the main religious groups of Orthodox Christians and Muslims, the religious groups of the Maronites, the Armenians and the Latins. The Constitution safeguards all the fundamental human rights and freedoms of all religious groups. In addition, they enjoy constitutional protection against any form of discrimination both as individuals and as a group. The members of these groups are appointed to the public service without any discrimination. Under article 109 of the Constitution they have the right to be represented in the Communal Chamber of the community they have opted to belong to. The aforesaid groups opted to belong to the Greek community.

51. The statement by Her Majesty's Government appearing as appendix E (under the title "The rights of smaller religious groups in Cyprus") to the paper presented to Parliament by the Secretary of State for the Colonies, the Secretary of State for Foreign Affairs and the Ministry of Defence by Command of Her Majesty in July 1960, prior to Cyprus becoming an independent State, is a comprehensive statement of the safeguards afforded by the Constitution to the religious minorities. It reads:

> "In the negotiations leading up to the establishment of the Republic of Cyprus, Her Majesty's Government have been concerned to secure for the minor religious groups in Cyprus (Armenians, Maronites and Latins) the continued enjoyment of the liberties and status which they have had under British rule. The following paragraphs set out the safeguards which are to this end being provided in the Constitution of the Republic.
>
> 2. Under the Constitution, members of these groups will, as individuals, be guaranteed human rights and fundamental freedoms comparable to those set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocol thereto. Both as individuals, and as groups, they will also enjoy constitutional protection against discrimination.
>
> 3. The Constitution will enable the Armenians, the Maronites and the Latins, as groups, to choose to belong to either the Greek-Cypriot or the Turkish-Cypriot Community. In the event of option, the members of the group will enjoy the same benefits as the other members of the Community. For example, they will be eligible for the Public Service of the Republic.
>
> 4. Any religious group which has opted as a group to belong to one of the two Communities will have the right under the Constitution to be represented in the Communal Chamber of the Community for which it has opted.
>
> 5. It will also be possible under the Constitution for any religious group, in common with other bodies, to have recourse as a group to the Supreme Constitutional Court to complain of any breach of the Constitution or abuse of power directly affecting the group as a body.

6. Finally, the Constitution will provide for members of the smaller religious groups to enjoy no less extensive rights in respect of religious matters than they enjoyed in law before the Constitution came into force, and matters of personal status will be under the jurisdiction of the religious groups themselves. In respect of education and cultural matters, the President-elect and the Vice-President-elect have given an assurance that the smaller religious groups need have no fear that they will be at a disadvantage in future in the allocation of public funds."

52. Historical note: In 1965, due to the fact that the functions of the Greek Communal Chamber had become impossible, a law was passed (No. 12 of 1965) whereby the powers of the Greek Communal Chamber were transferred to a newly constituted Ministry of Education. The representatives of the religious groups in the Chamber, despite the dissolution of the Chamber itself, retained, until the expiration of their term of office, the right to state the view of their community on any matter affecting it and to make the necessary representations before any official body or committee of the House of Representatives or other authority of the Republic. Moreover, the House of Representatives had the obligation to obtain the views of the representatives on any matter affecting their community. The future representation of the groups in the House of Representatives was reserved for regulation in the future. In 1970 Law No. 58 of 1970 entitled "Religious Groups (Representatives)" was enacted providing for the election of representatives of the religious groups in the House of Representatives. The last elections for representatives of the religious groups took place on 19 May 1991.

Education and teaching

53. Curricula in the field of history and civics have, as one of their main objectives, the promotion of respect for other people and understanding of their contribution to civilization and the importance of the spirit of cooperation between nations.

54. More specifically, in the history and civil curricula it is suggested:

(a) That pupils should be made conscious of the fact that the world culture is the result of collective human effort, struggle and sacrifice;

(b) That historical events should be represented from various points of view and in an objective manner;

(c) That pupils should understand the interdependence of people and their need to communicate and cooperate;

(d) That pupils should develop an interest in world problems;

(e) That pupils should be encouraged to avoid dogmatism and make use of dialogue to reach mutual understanding;

(f) That their approach to other people should be one of tolerance and mutual respect;

(g) That they should respect the right of self-determination and racial equality.

55. Books used in the teaching of literature include texts of foreign literature presenting human situations common to all nations. Also, texts presenting brotherly relations between peoples of different ethnic origin are used. International understanding is also sought through the foreign language curricula and methodology.

56. Furthermore, one of the purposes of the Cyprus University, which is particularly important as far as racial discrimination is concerned, is the contribution towards the mutual understanding between the communities of the Republic and the promotion of their traditions and civilizations. However, it must be mentioned that a major part of Cyprus is under Turkish occupation and the memory of war is still vivid in the minds of all people, particularly the relatives of dead and missing persons, and therefore it would be impossible to expect people to be too objective on matters touching the cause of their tragedy. Unfortunately, the bitterness of the past still persists and will persist for years to come and this will not allow the complete eradication of racial hatred until the cause of bitterness ceases to exist.

Article 3 - Equality

57. In addition to the legislative measures, taken and contemplated, which are set out in the second report, there has been a proposal to amend the Social Insurance Law to increase maternity leave from 12 to 14 weeks. It must be mentioned that according to the Social Insurance Law maternity benefits are granted for a period of 16 weeks.

58. Apart from the legislative measures safeguarding equality of women, women in Cyprus are now actually playing an important role in the administration and other facets of public and social life. The prejudices of the past are rapidly fading away and are gradually being eradicated from the peoples' minds. There are now women in the Council of Ministers, the judiciary, the legislature, the Office of the Attorney-General, in the police force, in the army and other fields, something which until 30 years ago did not exist as all these positions were considered exclusively men's jobs. On the other hand, fields which were mainly reserved for women, like nursing, are now being taken by men.

59. Some statistical information on the participation of women in political and economic life, in education and in the public service, is provided below:

(a) Political life:

(i) Women in parliament (1993): 2 out of 55 (3.6%);

(ii) Women in Government (1993): 1 minister out of 11 (9.1%);

(b) Economic life:

(i) Economically active women (1992): 111,000 or 38.7% of the total economically active population;

(ii) Gainfully employed by broad economic sector (1992):

Broad economic sector	Females	Total	Share of females (%)
	(thousands)		
Primary sector	15.7	35.7	44.0
Secondary sector	24.4	73.5	33.2
Tertiary sector	66.6	157.6	42.3
Total	106.7	266.8	40.0

(iii) Employment of women in non-agricultural establishments, by occupational group (1989):

Occupational group	Females	Total	Share of females (%)
Legislators, senior officials and managers	560	6 526	8.6
Professionals	7 725	18 391	42.0
Technicians and associate professionals	11 642	28 847	43.4
Clerks	10 879	17 922	60.7
Service workers and shop and market workers	15 697	37 139	42.3
Skilled agricultural and fishery workers	20	623	3.2
Craft and related workers	4 348	40 719	10.7
Plant and machine operators and assemblers	10 170	25 442	40.0
Elementary occupations	14 495	29 466	49.2
Total	75 536	203 075	37.2

(c) Education:

Women participating in teaching, by level (1992):

Level	Females	Total	Share of females (%)
First level	2 237	3 550	63.0
Second level	2 057	4 272	48.2
Third level	256	700	36.6

(d) Public service:

Employment of women in the broad public sector (1992):

Public sector	Females	Total	Share of females (%)
Government	11 965	32 785	36.5
Semi-governmental organizations	1 945	7 587	25.6
Local authorities	700	2 952	23.7
Total	14 610	43 324	33.7

60. The right of equality is not a dead letter of the law, but is respected and enforced by courts of law in everyday administration of justice. There was recently a court case (No. 32/93 of the Industrial Dispute Tribunal) where a pregnant woman was dismissed from her job on the ground that she became pregnant. The facts of the case are briefly as follows: a broadcasting company under the control of the Church of Cyprus dismissed a female employee from her post as a coordinator under a contract of service, on the ground that she broke an express or implied term of the contract by getting pregnant without being married. An action for damages was filed against the company. The Industrial Dispute Tribunal, after examining the facts of the case in the light of the Termination of Employment Law and the Protection of Maternity Law, awarded damages to the applicant for wrongful dismissal on the following grounds:

(a) The contract of service for the particular post concerned the applicant's qualifications and abilities for the proper execution of her duties which fall within the scope of Industrial Law and her personal circumstances did not constitute a condition of the contract between the parties, nor was it necessary that the objects of the company, being formed for the religious and moral education of the people, be reflected in the personal life of the employees;

(b) The Protection of Maternity Law, with regard to the persons entitled to maternity leave and other benefits, did not make any distinction between married and unmarried women; thus, such distinction could not be made in the present case by the Industrial Dispute Tribunal. However, even if that was not what the law provided, the fact that a similar situation in the personal life of male employees was not a ground for terminating their contract of employment, to hold otherwise in this case would amount to discrimination against the applicant on the ground of sex.

61. The equality on matters affecting citizenship and marriage is analysed in article 13 dealing with aliens.

62. There has not as yet been enacted a comprehensive law regarding sex discrimination in the field of employment, education, facilities, services and other fields. The enactment of such a law is under consideration.

Ill treatment of women and children by a family member

63. A recent legislative development aiming at the protection of weaker members of a family from violence exercised by other members of the same family is the enactment of a law providing for the prevention of violence in the family and for the protection of victims (Law No. 47 (I) of 1994). One of the objectives of this law is to express unequivocally the abhorrence of the State and its condemnation of every form of violence exercised by one member of a family against another. This is expressed by drastic increases of the penalties provided for all forms of violent activities whenever they are practised within the family.

64. The other objectives of the law are to facilitate the reporting and trial of such incidents; to empower the court to issue inhibition orders prohibiting the assailant from staying in the family house in order to protect the victim from the repetition of similar violent activities; to empower the court to issue interim inhibition orders pending the trial of the case; to create family counsellors and a committee for furthering the objects of the law; to set up a multidisciplinary group for professional advice to the Committee. The object of the law is not only to protect a spouse from the other spouse but also children, parents and other persons living in the same house.

65. The law is closely monitored to ensure its effective application. Following this, certain difficulties were encountered and for this purpose the Law Commissioner prepared a draft bill aiming at the amendment of the basic law. The proposed amendments provide, inter alia:

(a) For the appointment of representatives of the family counsellor so as to avoid the need to appoint extra personnel and the cost entailed. Such representatives will have all or some of the powers of the family counsellor as the Minister of Labour and Social Insurance may deem necessary to specify in the deed of appointment;

(b) For the admissibility of video-recorded interviews or statements of the victim so as to avoid the examination in chief of the victim concerning

matters which have already been included in the victim's interview or statement without prejudicing in this way the right of the other side to cross-examine the victim;

(c) For clarification as to the issue of an inhibition order in conjunction with a term of imprisonment with the clarification that such an order should not be issued when a term of imprisonment for more than six months is imposed.

The proposed amendment will be submitted to the appropriate Ministry for consideration.

66. It should be mentioned that on 22 November the Committee for the Protection of Welfare of Children organized a public meeting to discuss methods of implementation of the aforesaid law. At this meeting representatives of all the Ministries involved gave an account of what they had done so far and of what they intended to do for the implementation of this law. It was decided that in order to inform the public about the provisions of this law a summary of the law should be prepared in plain language for wider dissemination and better understanding of the law.

67. It should further be noted that the Association for the Protection and Dealing of Violence in the Family is organizing a seminar on 30 January 1995 the subject of which will be self-control and self-support for the prevention of violence in the family.

68. It is hoped that the implementation of the law will be conducive to the elimination of this form of unequal treatment of women and children.

Article 4 - Derogation during a state of emergency

69. Under article 183 a proclamation of emergency is issued by the Council of Ministers "in case of war or other public danger threatening the life of the Republic or any part thereof".

70. The articles of the Constitution which can be suspended are:

Article 7, safeguarding the right of life and corporal integrity but to the extent only that it relates to death inflicted by a permissible act of war;

Article 10, paragraphs 2 and 3, relating to the prohibition of forced and compulsory labour;

Article 11, safeguarding the right to liberty and security of person;

Article 13, safeguarding the right of free movement;

Article 16, safeguarding the inviolability of a person's house;

Article 17, safeguarding the right to secrecy;

Article 19, safeguarding the right of free speech;

Article 21, safeguarding the freedom of peaceful assembly;

Article 23, paragraph 8, subparagraph (d), regarding the requisition of property upon payment of equitable compensation;

Article 25, safeguarding the right to practise any profession or to carry on any occupation, trade or business;

Article 27, recognizing the right to strike.

The articles of the Constitution which can be suspended must be clearly stated in the proclamation.

71. The proclamation of emergency is laid before the House of Representatives forthwith and if the House is not sitting it must be convened as soon as possible. The House has the right to either reject or confirm such a proclamation. If it is rejected it has no legal effect. If it is confirmed, it is published in the Official Gazette of the Republic. The proclamation has a valid operation for two months unless its operation is prolonged by the House of Representatives at the request of the Council of Ministers.

72. During the emergency the Council of Ministers may, where immediate action is required, issue ordinances which have the force of law. The ordinances expire at the end of the emergency.

73. Under article 184 of the Constitution a person arrested by virtue of an ordinance providing for preventive detention, the authority on whose order the person is detained informs the person of the grounds of his detention, of the allegations of the facts on which the order is based and affords him the opportunity of making representations against the order. A person cannot be detained under an ordinance for more than a month unless an advisory board (chaired by a judge or ex-judge) is satisfied that there is sufficient cause for further detention.

74. As already stated in the previous report, no state of emergency was ever declared, even in 1974 when Cyprus was invaded by Turkey.

Article 5 - Restrictions of rights and freedoms

75. Nothing further to add.

Article 6 - Right to life

76. There were no reported cases of arbitrary killing by the security forces. There were no cases of disappearance of persons whilst detained by the authorities. There are however, cases of missing persons falling victim to crimes committed by private individuals.

77. Cyprus has a healthy economy and a good health programme. Therefore, the problems of infant mortality, short life expectancy, malnutrition and epidemics are non-existent.

78. Cyprus does not produce, test, possess, deploy or use chemical, biological or nuclear weapons. Nevertheless, it has ratified the following conventions:

Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (Ratifying Law No. 13 of 1965);

Treaty on the Non-Proliferation of Nuclear Weapons (Ratifying Law No. 8 of 1970);

Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Subsoil Thereof (Ratifying Law No. 63 of 1971);

Agreement for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (Ratifying Law No. 3 of 1973);

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (Ratifying Law No. 56 of 1973);

Agreement on the Privileges and Immunities of the International Atomic Energy Agency (Ratifying Law No. 31 of 1978);

Amendment to the Statute of the International Atomic Energy Agency (Ratifying Law No. 25 of 1988);

Convention on Early Notification of a Nuclear Accident (Ratifying Law No. 164 of 1988).

Use of force and firearms by security forces

79. Use of force by the police of the Republic of Cyprus is exercised according to the duties of the police officers and in accordance with the provisions of the Constitution and the relevant laws. Article 7, paragraph 3, of the Constitution permits the use of force, which may result in deprivation of life, but no more than is absolutely necessary to effect an arrest or to prevent the escape of a person lawfully detained or in action taken for the purpose of quelling a riot or insurrection. As to the degree of force which may be used by a police officer to effect an arrest of a person who forcibly resists or attempts to evade the arrest, section 9 of the Criminal Procedure Law, Cap. 155, provides that the use of greater force than is reasonable in the circumstances or is necessary for the arrest of the offender is under no circumstances justified.

80. Regarding the use of firearms by the police, special instructions are issued to the members of the force. Police Order No. 26 provides, inter alia, that:

(a) Members of the police force shall use firearms only when there is no other way of dealing with the situation and is absolutely necessary for:

(i) The defence of a person or property in order to avoid, proportionally, harm which is otherwise unavoidable and with irreparable effect;

(ii) Effecting an arrest or preventing the escape of a person lawfully detained;

(iii) Actions taken for the purpose of quelling a riot or insurrection;

(b) Members of the force shall not fire when it is obvious that they can effect their purpose by other means or when they are part of a team which is under the instructions of a superior officer responsible for the taking of decisions.

81. Moveover, Police Order No. 26 includes instructions concerning safety measures as to the use of firearms by police officers. There are further instructions regulating the control, storage and issuing of firearms and the police officers of every department are accountable for the firearms and ammunition issued to them, to superior officers and to the Chief of the Police who conducts periodic checks of these matters.

82. Similar provisions as to the degree of force to be used by police officers in quelling a riot are to be found in sections 73 and 74 of the Criminal Code, Cap. 154. As a first step, the police officer makes a proclamation commanding the rioters or persons so assembled to disperse peacefully. If upon the expiration of a reasonable time after such proclamation is made the rioters continue to assemble, a police officer may do all things necessary for dispersing the persons so continuing to assemble and, if any person resists, may use all such force as is reasonably necessary for overcoming such resistance. Moreover, Police Order No. 36 provides special instructions for use of force and firearms by the police in case of riot. The Police Order provides that even if the Criminal Code empowers the police to use the necessary force, including use of firearms, in order to overcome resistance to an arrest and in quelling a riot, use of firearms shall never be resorted to unless it is the only means through which constitutional order is to be restored and firearms shall never be used for punitive purposes but only for protection. The minimum necessary force must be used for the purpose of effecting the restoration of order and as soon as the purpose is effected, use of force and firearms must come to an end.

83. Instructions to the police are given by the supervising officer who shall strictly control the firing of weapons and shall avoid actions that may endanger the lives of innocent persons. In case the police officer in charge decides to use firearms, before he takes further action he must report his decision to the Police Commander, if that is possible, and if the circumstances so permit the Director General, together with the District Commissioner, shall visit the place.

84. The above provisions of the Police Orders have been made in accordance with the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly (resolution 34/169 of 17 December 1979), and in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana in September 1990.

85. In view of the concern of the Human Rights Committee regarding the use of force by police, the Law Commissioner recommended the organization of seminars, with the participation of experts from abroad, in an attempt to maintain awareness of the rights of the individuals involved and to keep the issues associated with the use of force and firearms under constant review.

Article 7 - Torture

86. The Cyprus Government submitted in June 1993 its initial report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (with a delay of only six months). The report was reviewed by the Committee against Torture on 18 November 1993.

87. Public opinion on torture was sensitized by two cases, the one to be referred to as the "Demosthenous case" and the other as the "Vassiliou case". The complainant in the first case (Demosthenous) alleged that he was ill-treated whilst in custody on suspicion of robbery. On his release he made an allegation that he was ill-treated whilst in custody, as a result of which an independent special investigator (not a member of the police force) was appointed to investigate the complaint. When the special investigator completed his inquiry he submitted his report to the Attorney-General according to the procedure provided in the relevant section of the law. The Attorney-General filed criminal charges of torture against two senior police officers and the case was heard by the Assize Court. The trial lasted for more than three months. The prosecution was handled by the Deputy-Attorney-General himself, which was an indication of the sensitivity of the authorities on matters of torture and ill-treatment of detainees. The Court did not call upon the accused to make their defence, not being satisfied by the evidence adduced and by the testimony of witnesses that a prima facie case existed. Following this, although an appeal does not lie on acquittal, the Attorney-General pursued the matter further and applied for the issue of a writ of certiorari on the ground that the decision of the Court was, on the face of it, wrong. The Supreme Court dismissed the application. From information received the complainant filed an individual recourse to the European Commission on Human Rights under article 25 of the European Convention on Human Rights. In the other case two police officers were charged with ill-treating a suspect. The Court eventually acquitted the accused, acting on the admissible evidence which was adduced before it. In this case there were some comments as to the showing of the alleged ill-treatment on television. During the trial there was no evidence of this and the Court based its decision on the evidence adduced. It must be stated at this juncture that the trials of criminal cases in Cyprus are based on the accusatorial system and the Court cannot itself embark on an inquiry on its own.

88. On 3 September 1993 the Council of Ministers, in view of the above cases and other allegations of ill-treatment of citizens by the police, appointed an independent Commission of Inquiry to investigate all complaints of ill-treatment covering a period of two years prior to the date of the order. The Commission of Inquiry is composed of a President and two members. The President of the Commission is a retired Supreme Court judge and the members a public attorney and a private lawyer. The inquiry started early in 1994 and its constitution and functions were widely publicized by the mass media. The inquiry is still in progress. According to the latest information there have been so far submitted to the Commission of Inquiry 25 complaints, out of which 22 concern ill-treatment of citizens by the police, including the cases of "Demosthenous" and "Vassiliou". In the course of the inquiry four of the complaints were withdrawn by the complainants voluntarily, another four were abandoned, six did not fall within the terms of reference of the Commission and the remaining eight are being examined.

89. Another development is the proposed amendment of the law for the Commissioner of Administration so as to clarify his functions and include thereto the hearing of complaints of ill-treatment of citizens by the authorities. A bill for the amendment of the law is pending before the House of Representatives.

90. According to the legal system a person cannot be held without a court order for more than 24 hours and any detention in contravention of this provision is illegal. There were no reports of any contravention of this provision. Therefore, the "disappearance" of persons is unknown in Cyprus, which is a small country where any disappearance would not pass unnoticed. However, the setting up of a Central Registry for entering the names of detainees and the place of their detention is something which the authorities are seriously considering.

91. Corporal punishment as a method of correction in educational or medical institutions is not resorted to any more, despite the fact that the application of force in certain circumstances may amount to a defence. The relevant provision of the law which absolves from liability the person applying force is section 27 of the Civil Wrongs Law (Cap. 148). The following parts of the section are pertinent to the use of force for the purpose of correction:

> "Section 27.
>
> "In any action brought in respect of any assault it shall be a defence:
>
> "...
>
> "(e) that the plaintiff was of unsound mind or was suffering from infirmity of mind or body and that the force used was, or appeared to be, reasonably necessary for his own protection or for that of other persons and was exercised in good faith and without malice.

"...

"(g) that the defendant was the parent, guardian or schoolmaster of the plaintiff or other person whose relationship to the plaintiff was similar to that of his parent, guardian or schoolmaster, and administered to the plaintiff only such chastisement as was reasonably necessary for the purpose of correction."

92. The above provisions are contained in a law enacted in 1922 and its application is subject to legislation of superior force. The present Covenant and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment after their ratification by the Government of Cyprus became part of Cyprus law and according to article 169 of the Constitution they are of superior force to municipal law. The above provision as well as other similar provisions which do not appear to conform with our international obligations will shortly be reviewed.

93. In practice the above article is respected by the educational and institutional authorities and there are only a few complaints of its violation. In fact, there were in the last three years two or three reports of teachers using violence (usually slaps) as a method for chastising pupils. The appropriate authority took disciplinary measures against the teachers involved.

94. Any scientific experimentation without the free consent of the person concerned amounts to an assault which is both a criminal offence and a civil wrong. Paragraph (h) of section 27 of the Civil Wrongs Law provides a defence for persons who applied force on persons unable to give their consent only if they have acted in good faith. The paragraph reads:

"27. (h) ... that the defendant acted in good faith for what he had reason to believe to be the benefit of the plaintiff but was unable before doing such act to obtain the consent of the plaintiff thereto, as the circumstances were such that it was impossible for the plaintiff to signify his consent or for some person in lawful charge of the plaintiff to consent on behalf of the plaintiff and the defendant had reason to believe that it was for the benefit of the plaintiff that he should not delay in doing such act."

95. In 1987 a law was enacted regulating the removal and transplant of biological substances of human origin (Removal and Transplant of Biological Substance of Human Origin Law 1987) (No. 97 of 1987). Under the law the removal from a living being is only permitted subject to certain conditions, one of them being the consent of the donor. The removal of a substance from a dead body is also only permitted under certain conditions. For the purposes of this part of the law the criteria for determining death are defined. There are further provisions for the means of removal, the removal of eyes, the cost of removal, the donation of the body after death and the legality of the removal. In 1989 regulations were made for the better implementation of the law.

96. The interrogation of suspects or witnesses must be carried out very carefully and according to the rules, because any statement vitiated in any way by the use of force or any form of oppression is rejected by the courts if tendered as evidence. In Cyprus any investigator must apply certain rules which under English law are known as the Judges Rules and they set very high standards for the interrogation procedure. These Rules were made part of the Law of Cyprus (Criminal Procedure Law, Cap. 155, sect. 8). The manner of interrogation is one of the subjects included in the programme of the Police Academy.

97. Under the Prisons (General) Regulations of 1981, corporal punishment or confinement in a dark cell and any cruel, inhuman or degrading punishment applied as disciplinary measures against prisoners are prohibited (Reg. 88). Under Regulation 80 of the same Regulations the isolation of a prisoner is permissible provided that, if such isolation is likely to have adverse effects on the prisoner, it can only be resorted to if a medical officer certifies that the prisoner can sustain such treatment.

98. It must be mentioned that the Prisons Law and Regulations are at present at an advanced stage of revision with a view to their being modernized and brought into conformity with the legislation of other European countries. The main characteristic of the new law and regulations is the improvement of the existing system. In particular:

(a) Prisoners are enabled to attend weddings, funerals and other family events, either under guard or with a special permit of absence. This improves the existing provisions;

(b) There are provisions enabling prisoners to have contacts for securing employment after their release;

(c) Also, there is provision for the arrangement of private meetings of prisoners with their spouses (new provision).

99. There was until recently a law entitled "Convicts Property Law", Cap. 282, providing for the appointment of an administrator of the estate of prisoners. This law was repealed (Law 25 (I) 1994) along with other antiquated laws under the programme of the Law Commissioner for the reform and modernization of Cyprus legislation.

Article 8 - Prohibition of slavery

100. Nothing further to add.

Article 9 - Liberty, detention, arrest

101. The provisions of the law regarding pre-trial detention are fully respected and there are no reported complaints of violation of such provisions.

102. The arrest and detention of persons are confined in practice to suspects of criminal offences and persons suffering from mental illnesses whose detention is considered necessary for their own safety or for the safety of

others. The confinement of persons was recently extended by a law providing for the treatment and rehabilitation of drug-dependent persons. Under this law the parents or the guardians of persons under the age of 18 may apply to the court for an order authorizing the treatment of a person under their control and custody in special detoxification centres. The law, under the title "Treatment and Rehabilitation of Drug Dependent Persons Law 1992" (57 (I) of 1992), came into force in 1992, but so far no application has been made of it.

103. There are no cases of arrest or detention of vagrants or of persons for purposes of educational supervision unless such detention is directed by a court of law as part of a sentence or in any order issued under the provisions of a specific law such as the Children Law (Cap. 352). (See the section dealing with article 24 of the Covenant.)

104. Persons may also be arrested and detained under the Aliens and Immigration Law (Cap. 105). For more particulars on the provisions of this law see the section dealing with article 13 of the Covenant.

105. The rights, treatment, bail, etc. of detainees are regulated by Police Order No. 3. By virtue of this Order, a person is deemed to be "under detention" from the moment he is arrested and deprived of his liberty. A detainee is being searched in order to:

(a) Take from him any weapon, poison or other thing with which he might cause injury to himself or to others or damage property or effect his escape;

(b) Seize from him anything which may constitute material evidence in court;

(c) Safeguard his personal property.

Detainees are searched only by persons of the same sex.

106. Moreover, every cell in a police station must be adequately furnished with a bed, a table and chair and be provided with sheets, blankets and materials for the personal cleanliness of the detainee. However, if the detainee is violent, furniture and other necessities which may be used to cause harm to himself or to others are removed from the cell.

107. Regarding the rights of detainees, the following provisions are contained in the Order:

(a) Every detainee must be allowed reasonable facilities for communicating with a relative (or in the absence of a relative, with a friend) or with a lawyer on matters of urgent domestic affairs concerning his detention or for making arrangements for his defence;

(b) Every detainee should be supplied on request with writing materials, and his letters should be sent by post or otherwise with the least possible delay. Letters sent to a lawyer shall not be inspected by the police but those sent to relatives or friends may be open for police inspection;

(c) Every alien detainee should be allowed to communicate immediately by telephone or telegram with the representative of his country concerning his detention;

(d) A person in custody must be informed at the earliest opportunity of the facilities provided by handing to him and explaining if required the "Notice to Persons in Custody" which sets out the rights of detainees.

108. When determining the question of granting bail, police officers must take into consideration the seriousness of the charge together with the character of the accused and in case of doubt they should not hesitate to consult their superior officer.

109. A person in custody, unless he has been released earlier, must be brought before the court 24 hours after his arrest. Furthermore, this Police Order provides that a person in custody must at all times be treated by police officers with consideration and in a humane manner. Any conduct by a police officer towards a detainee coming within the meaning of "third degree methods" (i.e. any assault, threat of assault or threat of future reprisals against a prisoner or any of his accomplices, promise of a favour or any pressure used for the purpose of inducing confessions or obtaining information) is strictly forbidden.

110. Finally, the same Police Order makes provision for the medical care and maintenance of detainees. The rights of minors in custody are regulated by this Order and also by another Police Order especially for minors.

Contagious diseases

111. Detention of persons suffering from a contagious or infectious disease is allowed under the Infectious Diseases (Prisoners) Law, Cap. 284. This law was enacted in 1980 and applies only to prisoners. Section 2 of the law provides:

> "Where any person suffering from any contagious or infectious disease comes lawfully into the custody of any police officer, or is detained in any prison under the warrant of a court of criminal jurisdiction, and the District Medical Officer certifies that his liberation would be dangerous to the public health, he may be detained for medical treatment in any hospital or asylum for such period, after the date when he would otherwise have been released, as the District Medical Officer may certify to be necessary for the cure of a disease or until the District Medical Officer certifies that he may be allowed to be at large without danger to the public health:
>
> Provided that no person shall be detained under this law for any period exceeding three months on any one occasion."

112. At first sight the law appears to be harsh. However, there are no reported cases of the law being resorted to in the last 30 or 40 years and it seems that the law is antiquated and in fact will be repealed with the enactment of the new Prisons Law (see art. 10).

113. There was a law (originally enacted in 1891) entitled "Lepers Law" providing for the establishment of a leper asylum for the segregation and treatment of lepers which, however, was repealed in 1957. It may further be mentioned that there was a sanatorium for tuberculosis but the treatment was not compulsory. As tuberculosis is no longer incurable the sanatorium was converted into an ordinary hospital.

114. Another law imposing restrictions in the movement of people is the Quarantine Law, Cap. 260 (enacted in 1932). The law regulates the imposition of quarantine for the prevention of introduction and spread of dangerous infectious diseases. Dangerous infectious diseases under the law are cholera, plague, smallpox, typhus and yellow fever and any other disease of an infectious or contagious nature which may be declared to be so by notification.

115. It is worth mentioning that under the Quarantine (Public Health) Regulations (made under the Quarantine Law) certain persons knowingly suffering from dangerous infectious diseases cannot carry on any trade or calling connected with the sale of foodstuffs or other trade involving close personal contact such as nurse, domestic servant, tailor, barber, hotelier, innkeeper, etc. Dangerous diseases for the purpose of the above regulations are: smallpox, chicken pox, scarlet fever, cholera, plague, diphtheria, epidemic cerebro-spinal meningitis, typhus, typhoid, dysentery, tuberculosis (all forms), yellow fever, dengue, measles, acute anterior poliomyelitis, trachoma, leprosy, whooping cough, relapsing fever, anthrax, influenza.

Article 10 - Humane treatment of detainees

116. The revision of the Prison Law and Regulations is now at an advanced stage and is expected to be laid before the Council of Ministers for approval following which they will be laid before the House of Representatives for enactment. The following are some of the new provisions included in the above law aiming at improving the conditions of detention and at making the detention more humane:

(a) Detention in open prisons;

(b) Establishment of a centre for guidance and employment outside the institution;

(c) Redefinition of the basic principles pertaining to detention;

(d) Remission of sentence on the grounds of good behaviour and industry;

(e) Leave of absence and escorting prisoners on visits outside the prisons;

(f) Arrangement for prisoners to meeting in private with their spouses (or fiancées);

(g) Arrangement for the exercise of the right to vote.

117. According to the Prisons Discipline Law now in force there is a Prison Council the main function of which is to hear any complaints the prisoners may have. It is composed of members appointed from the public and private sectors. The Prison Council will function more effectively with the amendments effected in the new law.

118. There is no longer a reform school in Cyprus. There was one some years ago but it was closed down as the number of inmates was very small; it was only for boys and its effectiveness was doubted. Moreover, the young persons sent there were detained for an unspecified time (but were released upon reaching maturity age) and this was sometimes longer than the period of incarceration a court would ordinarily order in a case involving an adult offender charged with the same offence. (See also the section dealing with art. 24 of the Covenant.)

119. Juvenile delinquents are as a rule dealt with by issuing probation orders placing them under the supervision of a probation officer. Such orders are subject to such conditions as the Court may think appropriate to impose. There is a new law under consideration providing for probation and other treatment of offenders whereby the court may direct an offender (not necessarily a juvenile) to be placed (with his consent) on probation with the special conditions of doing communal work or of undergoing training in a chosen vocation. The bill is now before the House of Representatives for consideration.

120. Life imprisonment. In Cyprus there is no parole board and the remission of sentence is effected by reducing part of the sentence imposed. As life imprisonment has no ceiling, it is interpreted in the law as a sentence of 20 years. However, the recent prevailing view is that life imprisonment should be for the rest of the biological life of the prisoners and as remission to be given by the President of the Republic in exercising his prerogative of pardon.

Article 11 - Imprisonment for inability to pay civil debt

121. A judgement debtor is not liable to imprisonment for failing to pay his debt unless he refuses or neglects to pay the money due despite the fact that he has or had sufficient means since the making of the order to pay the debt. The law regulating the above is part VIII of the Civil Procedure Law, Cap. 6. The Law Commissioner of the Republic of Cyprus, bearing in mind the concern of the Human Rights Committee on this matter, proposed for consideration a revision of the existing legislation and the enactment of supplementary legislation putting on a new footing the collection of judgement debts from judgement debtors.

122. The Commissioner has submitted for consideration three alternatives:

(a) Enactment of a new law enabling the attachment of debts on the salary of the debtor. The drawback of this is that it cannot be applied in the case of a self-employed debtor;

In addition to (a):

(b) Retain the imprisonment mode of execution but with the following changes:

(i) An order for imprisonment to be imposed when after an investigation by the court as to the means of the debtor, an order is made by the court directing the debtor to pay a sum found to be within his means. If the ordered sum is not paid, then either (a) it is to be collected as a pecuniary penalty imposed in a criminal case entailing, inter alia, imprisonment, or (b) the failure to pay is to be considered as amounting to the commission of an offence (of a fraudulent nature) for which the debtor shall be liable to criminal prosecution;

(ii) The debtor to be given the opportunity to prove that since the investigation, his means have changed whereby his ability to pay the ordered sum was detrimentally affected. This may be a defence to the case of (b) above;

(iii) The imprisonment to be suspended upon payment of the sum due in case (a) above;

(c) Imprisonment to be one of the sentences to be imposed where a judgement debtor, with a view to hindering his creditor in obtaining satisfaction of the judgement debtor, transfers his property fraudulently.

Article 12 - Freedom of movement

123. Nothing further to add.

Article 13 - Aliens

124. The rights of aliens are closely connected with the acquisition of Cypriot citizenship and further with the right of freedom of religion, the right to marry and generally the right to equal treatment.

125. The provisions relating to the nationality of persons affected by the establishment of the Republic of Cyprus are contained in article 198 of the Constitution and article 6 of annex D of the Treaty of Establishment. Article 198 of the Constitution of the Republic provides that until a law relating to citizenship is enacted the following provisions will apply:

(a) Every issue relating to citizenship will be regulated by annex D of the Treaty of Establishment; and

(b) Any person born in Cyprus on or after the date of the coming into operation of the Constitution shall become on the date of his birth a citizen of the Republic if on that date his father has become a citizen of the Republic or would have acquired this citizenship by the provisions of annex D if he was alive.

126. In annex D (art. 6) of the Treaty of Establishment it is provided that:

(a) Citizens of the United Kingdom and Colonies who on the date of the Treaty possessed any of the certain specified qualifications (mainly persons of Cypriot origin from the male line) became citizens if they were resident in Cyprus at any time within five years prior to the date of the Treaty;

(b) Citizens of the United Kingdom and Colonies who on the date of the Treaty possessed any of the specified qualifications referred to in (a) above (mainly persons residing in Commonwealth countries) ceased to be citizens of the United Kingdom and Colonies unless they possessed certain specified qualifications;

(c) Citizens of the United Kingdom and Colonies who before the date of the Treaty possessed any of the specified qualifications referred to in (a) above but did not become citizens under (a) above (mainly persons of Cypriot origin who did not reside in Cyprus between 16 August 1955 and 16 August 1960) and applied for citizenship if certain conditions were satisfied at any time;

(d) Citizens of the United Kingdom and Colonies who could apply within 12 months from the agreed date for citizenship if certain specified qualifications were possessed;

(e) Women citizens of the United Kingdom and Colonies married to citizens who could apply for citizenship.

The annex also provides for other cases where citizenship may be acquired by application.

127. In 1967 a law was enacted under the title "The Republic of Cyprus Citizenship Law" (43 of 1967) regulating matters pertaining to citizenship and other related matters. This law was enacted to supplement annex D and to cover cases of persons born after the establishment of the Republic. In particular, it provides for the ways citizenship is acquired, renounced or revoked. Revocation can be exercised, under section 8 of the law, by order of the Council of Ministers in the following circumstances:

(a) When the citizenship was acquired by fraud or misrepresentation;

(b) When the citizen in question acted unlawfully or to the prejudice of the Republic;

(c) When in time of war in which the Republic was involved the citizen in question communicated with the enemy or otherwise acted in a way prejudicial to the interests of the Republic;

(d) When within five years of his acquisition of citizenship the citizen in question was convicted in any country to imprisonment for a period not less than 12 months.

128. The Council of Ministers will not revoke citizenship under this law unless it is satisfied that it is not to the public interest that the citizen in question continues to be a citizen of the Republic. Moreover, before issuing an order for revocation the Council of Ministers sends written notice to the person against whom the order is directed to be issued and the person in question can apply for an investigation of his case.

129. Under Law 43 of 1967 citizenship is acquired by registration (sects. 2 and 5) or by naturalization (sect. 6). Cypriot citizenship by registration is acquired by: persons of Cypriot origin born abroad after the establishment of the Republic; citizens of the United Kingdom and Colonies or of Commonwealth countries of Cypriot descent over 21 years of age; alien women widows of Cypriot citizens or married to Cypriot citizens provided that they have been living with their husbands for a period of at least one year; children under 21 years of age whose father or mother is a citizen of Cyprus. An alien man married to a Cypriot woman cannot obtain citizenship by registration. He can, however, apply for naturalization under section 6 of the law but he has to satisfy the conditions required, one being residence for an aggregate of five years over a period of eight years prior to his application.

130. It may be added by way of clarification that a Cypriot woman married to an alien does not lose her citizenship nor does she lose the right to hold a post in the public service.

131. The law relating to aliens and immigration is the Alien and Immigration Law (Cap. 105). This law was enacted in 1952 before Cyprus became a Republic with a written Constitution wherein the civil and political rights of the citizen were expressly declared and recognized. This law contains provisions which are connected and related to the colonial regime under which it was enacted. Accerding to article 188 of the Constitution, "all laws in force on the date of the coming into operation of this Constitution shall, until amended ... continue in force ... and shall from that date be construed and applied with such modifications as may be necessary to bring them into conformity with this Constitution". Therefore, the aforesaid law has to be construed and applied in the light of the Constitutional provisions.

132. Section 10 of the law provides that no alien has an absolute right of entry. Entry is usually refused to persons who are prohibited immigrants or are not considered bona fide tourists (insufficient foreign exchange or no return ticket).

133. Under section 6 of the law the following persons are prohibited immigrants and their entry into Cyprus is not permitted:

(a) Any destitute person;

(b) Any idiot or insane or feeble-minded person or any person who for any other cause is unable to take proper care of himself;

(c) Any person certified by a medical officer to be suffering from a contagious or infectious disease which, in the opinion of the medical officer, is a danger to public health or who refuses to comply with the requirements of any Regulations made under any enactment in the interests of public health;

(d) Any person who, not having received a free pardon, has been convicted of murder or an offence for which a sentence of imprisonment has been passed for any term and who, by reason of the circumstances connected therewith, is deemed by the immigration officer to be an undesirable immigrant;

(e) Any prostitute or any person living on the proceeds of prostitution;

(f) Any person who, from official government records or from information officially received by the Governor from a Secretary of State or from the Governor of any British Colony, Protectorate or Mandated Territory or from the Government of any foreign State or from any other trusted source is considered by the Governor to be an undesirable person;

(g) Any person who is shown by evidence which the Governor may deem sufficient, to be likely to conduct himself so as to be dangerous to peace, good order, good government or public morals or to excite enmity between the people of the Colony and Her Majesty or to intrigue against Her Majesty's power and authority in the Colony;

(h) Any member of an unlawful association as defined in section 63 of the Criminal Code or any law amending or substituted for the same;

(i) Any person who has been deported from the Colony either under this law or under any enactment in force at the date of his deportation;

(j) Any person whose entry into the Colony is prohibited under any enactment for the time being in force;

(k) Any person who enters or resides in the Colony contrary to any prohibition, condition, restriction or limitation contained in this law or any Regulations made under this law or in any permit granted or issued under this law or such Regulations;

(l) Any alien who, if he desires to enter the Colony as an immigrant, has not in his possession, in addition to a passport bearing a British Consular visa for the Colony, an immigration permit granted by the Chief Immigration Officer in accordance with any Regulations made under this law;

(m) Any person who is deemed to be a prohibited immigrant under the provisions of this law.

(Note: the references to the colonial regime are subject to revision and adjustment under article 188 of the Constitution. Moreover, the words "Governor" and "Colony" should be read as Council of Ministers and Republic, respectively).

134. The Government (Council of Ministers) has the power to grant a licence for a prohibited immigrant to enter and remain in the country for such periods and subject to such terms and conditions as may be deemed fit.

135. Under section 13 a prohibited immigrant may be ordered to leave the island.

136. Under section 14 the Chief Immigration Officer is given the power to issue deportation orders. Section 14 (2) provides:

"An alien who is ordered to be deported shall be deported:

(a) to some place in the country to which he belongs; or

(b) with the approval of the Council of Ministers, to the place where he came from not being the country to which he belongs or to any place to which he consents to be deported provided that the Government of either such place consents to receive him".

137. Finally section 15 provides for the repatriation of destitute employees (his maintenance being chargeable on his employer) and section 16 provides for the recovery of the expenses of deportation.

138. The deportation of aliens is effected the soonest possible. Usually it takes place within a few days after the issue of the order for detention and deportation. On very rare occasions, when the alien does not wish to go back to his country, the execution of the order may take some weeks during which efforts are made to find a country willing to accept him. At the time when the report was prepared there were 26 aliens under arrest and of these 23 had been in custody for less than one week.

Particular categories of aliens liable for expulsion

139. Idiots, insane or feeble-minded persons. Aliens who are suffering from mental illness are treated in the same way as local people. According to the law (Mental Patients Law, Cap. 252) a person can only be detained in a mental hospital if a court of law so orders after an inquiry has been carried out to ascertain whether he is a fit subject for confinement; ordinarily a person is deemed to be a fit subject for confinement if he is dangerous to himself and to others. Persons who have psychological problems are treated in the outpatient departments of the general hospitals and need not be treated at a mental hospital. An alien mental patient who is receiving treatment in a mental hospital will not be released unless he is well enough to travel back to his country either on his own or accompanied by a nurse or psychiatrist. An alien suffering from mental illness is repatriated not because he is considered as a burden to the State but because it is believed that his own environment would be more conducive to his treatment; however, he is only repatriated if he is in a position to travel. There was a case of an alien woman who was repatriated after she became well enough to travel because she could not communicate owing to lack of knowledge of the languages spoken on the island and communication with the patient was considered of paramount importance for her treatment.

140. In 1993 there were six alien men and two alien women detained in the mental hospital and between January and March 1994 there was one alien man and two alien women. The latest information, obtained in December 1994, is that there are no aliens detained in the mental hospital.

141. Prostitutes. Under the law prostitutes are prohibited immigrants, their entry is prohibited and if they are found on the island they may be deported. Who are prostitutes and what is their legal status in Cyprus are questions not easily answered.

142. Prostitution itself is not prohibited in Cyprus but certain activities associated with prostitution are, such as:

(a) Keeping, managing or assisting in the management of a brothel, the use or letting of premises to be used as a brothel (sect. 156 (1) of the Criminal Code, Cap. 154);

(b) Procuring a woman to be a prostitute or to be an inmate of a brothel (sect. 157 of the Criminal Code, Cap. 154);

(c) Allowing a child or young person (4-16 years of age) to reside in or frequent a brothel (sect. 158 of the Criminal Code, Cap. 154);

(d) Detaining a woman against her will in a brothel (sect. 162 (b) of the Criminal Code, Cap. 154);

(e) Living on the earnings of prostitution (sect. 164 of the Criminal Code, Cap. 154);

(f) A woman aiding for gain the prostitution of another woman (sect. 165 of the Criminal Code, Cap. 154);

(g) Keeping or managing a brothel which is a nuisance or annoyance to the public in general or to the people who dwell or occupy property in the vicinity of the brothel (Nuisances (Brothels) Law, Cap. 158).

143. A brothel is defined as premises used for the purpose of habitual prostitution. What amounts to prostitution, living on the earnings of prostitution, procurement for prostitution and other associated terms were judicially defined in a number of cases. In the case Police v. Mehmed (XIV CLR 77), where a woman allowed two prostitutes to use her house for their own prostitution upon payment of part of their earnings, it was held that this did not amount to living on the earnings of prostitution. Moreover, what constitutes a brothel is subject to a number of qualifications the most important being that a house used by one prostitute is not a brothel (following English case-law: Singleton v. Ellison (1895 1QB 607); Strath v. Foxon (1956 1QB 67); Caldwell v. Leech (109 L.T. 188).

144. On the subject of prostitution and traffic in women, the following information is provided.

145. Cyprus has ratified the International Convention for the Suppression of the Traffic in Women and Children (1947), the International Convention for the Suppression of the White Slave Traffic (1949), the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (Law No. 57/83) and the Convention on the Elimination of All Forms of Discrimination against Women (Law No. 78/85).

146. There is evidence that a number of women were involved in trafficking of women and forced prostitution during the years 1988-1992. The evidence is available from women working as artistes in cabarets. Most of these women come from Asia but recently they have also been coming from Eastern European countries. In the years 1988-1992, 25 cases concerning trafficking in women were presented before the courts as a result of which 20 persons were convicted. In 1992 two Romanian cabaret artistes complained that two cabaret owners and two waiters were forcing them into prostitution. Criminal charges were filed against these persons but none of them was convicted due to lack of evidence.

147. Women working as artistes or bar girls at cabaret bars or nightclubs are vulnerable to exploitation and prostitution and the appropriate authorities are taking drastic measures to protect them from such exploitation, ill-treatment and procurement. The entry of artistes, bar girls and nightclub workers in the country is controlled by the Migration Department which is also responsible for the implementation of the relevant laws and policies in close cooperation with the police. Various measures are being taken by the said authorities for the prevention of trafficking and exploitation of alien women, including the issue of limited visas, informing the artistes well in advance of the Cyprus legislation, and inspecting and approving the condition in their contracts of employment. There are, moreover, check controls of the places and conditions of their employment, for the purpose of ascertaining whether the artistes are really present at the place of work and for the purpose of collecting evidence for any violation of the law. If it appears that there are such violations the appropriate measures are taken against the agent or the owner of the cabaret.

148. The artistes are given the opportunity, during check visits by the migration officer, to speak to them in private and make any complaints they may have against their employer or the terms of their employment. An employer violating the law with regard to terms of the contract of employment may be refused visas for foreign artistes.

149. The entry of a prostitute is only prohibited if on a previous visit on the island she practised prostitution. In practice, the law has been applied only in one or two cases so far and only when there is evidence that the alien woman is a prostitute. In such a case, she will not be deported immediately but her resident permit will not be renewed and as a result she will have to leave the country as soon as the residence permit expires, thereby losing the right to re-enter the Republic.

150. Persons suffering from contagious diseases. Under the Aliens and Immigration Law, Cap. 105 (sect. 6 (1) (c)) a person certified by a medical officer to be suffering from a contagious or infectious disease is a prohibited immigrant if in the opinion of the medical officer such person is a danger to public health or if he refuses to comply with the requirements of any Regulation made under any enactment in the interests of public health. The Ministry of Health considers as contagious diseases, for purposes of this provision of the law, AIDS, syphilis and hepatitis B, but this alone is not enough for expulsion unless the medical officer is of the opinion that the person in question is a danger to public health. In determining this there are a number of factors which are taken into consideration.

151. In the first place, the Ministry of Health respects the recommendations and directives of the World Health Organization regarding the expulsion of aliens on the grounds of ill health and every effort is being made for their implementation. In the second place, the local conditions of a country cannot be overlooked; whereas in one country adherence to the recommendations may be quite feasible without any danger to public health, in another country with different local conditions such adherence may give rise to real public health problems.

152. The factors which are considered conducive to the spreading of the contagious diseases are:

(a) The smallness of the country and of its population;

(b) The prejudices and general attitude of people;

(c) The large number of alien labourers, domestic servants and artistes working on the island;

(d) The degree of infectiousness of the disease.

153. The Ministry of Health, with a view to protecting people from AIDS and other sexually-transmitted diseases, has embarked on an intensive campaign of information and education of people regarding the dangers from such diseases, methods of protection and attitudes towards persons who have contracted such diseases. Under the programme, lectures are being given at educational institutions, the national guard, places of detention and to certain vulnerable categories of aliens such as artistes and bar girls. The education of the last-mentioned class of aliens is being done when they attend the medical centres for medical examinations. However, it must be mentioned that the authorities have a problem communicating with them as most of these aliens do not speak any of the languages spoken on the island. To overcome this the Ministry of Education and Culture, in cooperation with the diplomatic missions of the country these alien workers come from, will translate into their native tongues a circular with the necessary informative material.

154. Aliens, particularly artistes, intending to enter the island for purposes of work are required to produce a medical certificate to the effect that they are not suffering from any of the contagious diseases mentioned. However, for purposes of double safety, they are allowed to enter and stay in the country for a few days until they are medically examined in Cyprus. It may be mentioned in this context that an alien working in Cyprus in an offshore company is suffering from AIDS and has not been deported. It may further be mentioned that a person was deported when his permit expired because of the attitude of the people in his environment.

155. At a recent meeting at the Ministry of Health, it was decided that as far as student aliens suffering from hepatitis B are concerned, they will be permitted to enter and stay in the Republic provided that they are regularly supervised by the Medical Officer and a report of their health condition is sent to the Immigration Officer.

156. The Cyprus courts have dealt with a number of recourses on matters of citizenship, refusal of entry and expulsion and other connected issues such as freedom of religion and marriage. There are also cases which have been dealt with by the Commissioner for Administration (Ombudsman). The following are some of the most recent cases.

157. In the case of M.A., the Immigration Officer refused entry to an alien married to a Greek Cypriot woman on the ground of change of religion and marriage to a Muslim. The Supreme Court held that the decision of the Immigration Officer was contrary to the Constitution and the European Convention on Human Rights. The decision was thereby annulled.

158. The Commissioner for Administration considered the complaint of E.M. justified and made recommendations for its consideration. The facts of the case were as follows: the complaint was against the Ministry of the Interior concerning its decision to prohibit the marriage of the complainant to an alien national of the Syrian Arab Republic. The complainant followed the preliminary procedure for a mixed marriage under the Marriage Law, Cap. 279. After the publication of the notice to marry, the marriage officer refused to solemnize the marriage, relying on the view of the police that the marriage was a marriage of convenience. The complainant had earlier applied to the authorities to grant a residence permit to her intended husband but the authorities refused to issue such a permit. Eventually, he was ordered to leave the country. During the investigation of the complaint it was established that the right of a Cypriot citizen to contract a marriage with a person of her own choice, as well as her right to respect of her private life, had been violated by the intervention of a public authority. The Commissioner recommended that the case of the complainant should be re-examined, taking due notice of the rights of the complainant emanating from the Constitution and the international conventions. The Commissioner also recommended that the Ministry of the Interior should re-examine the procedures followed in cases of marriages between Cypriot citizens and aliens. He went on to examine certain criteria which were agreed at a meeting which took place at the office of the Immigration Officer and expressed the view that the said criteria were arbitrary, contrary to the law and violated the right to freedom of marriage guaranteed by article 22 of the Constitution. After the submission of the report of the Commissioner the complainant was allowed to marry the Syrian citizen.

159. The Commissioner for Administration considered another complaint made by S.C.L. (Ref. No. 388/93) against the Immigration and Aliens Department concerning its failure to examine and decide on the complainant's application to register her children as Cypriot citizens. The complainant was a Cypriot citizen, her children were born in Cyprus, they were of Cypriot origin but they did not possess Cypriot citizenship because their father, even though descended in the male line from a Cypriot, was born abroad and did not apply for registration as Cypriot citizen. In the report submitted by the Commissioner for Administration to the Council of Ministers after the investigation of the complaint, it is stated that according to the provisions of the Republic of Cyprus Citizenship Law of 1967-1983 the acquisition of Cypriot citizenship is possible only when a person descends in the male line from a Cypriot citizen. The Commissioner states that this requirement does not comply with the recent legislation of other countries and with the

international efforts for the elimination of all forms of discrimination against women. Article 5 (3) of the law provides an exemption to the above general rule and gives the Minister of the Interior discretionary power to decide whether the children of a Cypriot woman can become citizens of the Republic even though their father is an alien. The practice followed by the Immigration and Aliens Department in examining such applications is to give the children Cypriot citizenship only when their father has already become a Cypriot citizen after their birth, or when the children cannot apply for any other citizenship or when the minor served in the National Guard. In this way the Department ignores the possibilities provided in article 5 (3) of the law as well as the intentions of the legislator. The Commissioner recommended that the Immigration and Aliens Department should within a month examine and decide on the pending applications taking into account the contents of his report. The application was in fact re-examined by the Minister of the Interior and it was approved (March 1994).

160. It is to be noted that the practice followed in the past has been changed and that Cyprus citizenship is granted indiscriminately to all children irrespective of whether the mother or the father is a citizen of Cyprus.

161. In view of the above decisions and the obviously discriminatory provision contained in the relevant laws, a committee was set up at the recommendation of the Law Commissioner to consider revision of the legislation pertaining to matters of mixed marriages, acquisition of citizenship and matters relating to entry and stay of aliens in Cyprus and expulsion therefrom. In particular, the Committee is considering for revision the following provisions

"- Section 4.(2) giving the right to citizenship by registration of persons of Cypriot descent from both the male and female right. This right is now given to persons who are descendants of the male line from such persons.

"- Section 5.(2) of the Cyprus Citizenship Law whereby an alien woman married to a Cypriot citizen can apply for citizenship by registration but an alien man married to a Cypriot citizen woman cannot do the same.

"- Section 5.(3) giving the power to the Ministry of the Interior to grant the citizenship to children of Cypriot citizens.

"- Section 34 of the Marriage Law, Cap. 279 excluding the application of the law to Turks, professing the Muslim faith."

as well as a general revision of the Alien and Immigration Law (Cap. 105).

162. Regarding sections 5 (2) and 5 (3) of the Cyprus Citizenship Law, a draft bill has been prepared by the Law Commissioner whereby:

(a) Both alien women and alien men may acquire Cypriot citizenship by registration if they have been living with their Cypriot spouses for a period of at least three years; and

(b) A minor child of a Cypriot citizen shall acquire Cypriot citizenship after the parent or guardian submits an application in a prescribed form to the Minister of the Interior. Therefore, the Minister of the Interior will no longer have discretion in giving Cypriot citizenship to a minor child of a citizen of the Republic.

The bill will in due course be submitted to the appropriate Ministry for further action.

163. The review being undertaken of the Aliens and Immigration Law (Cap. 105) aims at:

(a) Removing certain provisions which are either antiquated or contrary to the Constitution and international conventions;

(b) Revising the provisions relating to the decisions of the immigration officers for expulsion;

(c) Introducing new provisions with a view to setting up a body for reviewing the decisions of the immigration officers. This body will also decide matters pertaining to refugees seeking political asylum and, according to the court, have the power to order deportation in lieu of imposing any sentence on a convicted alien.

164. It may further be mentioned that there is pending in the House of Representatives a member's proposal for the amendment of the Aliens and Immigration Law (Cap. 105) by the addition of a new section providing for the establishment of an Aliens and Immigrants Review Committee with competence to review as an administration review organ in the second instance the decision of the Chief Immigration Officer. The Review Committee will be composed of the Attorney-General or his representative as Chairman and two members to be appointed by the Council of Ministers.

165. A bill has been prepared by the Law Commissioner aiming at the repeal of section 34 of the Marriage Law, Cap. 279, in order that Cap. 279 be applied to every person regardless of his religion. The bill will in due course be submitted to the appropriate Ministry for further action.

166. The Committee responsible for the preparation of the report submitted under the Covenant in cooperation with the Ministry of the Interior will prepare a bulletin in which the rights and obligations of aliens will be stated. The bulletin will be in the main languages used in Cyprus (English, French, German, Arabic).

167. At the time of preparation of this report (March 1994) there were in Cyprus 35,000 registered aliens residing in the country as permanent residents or for temporary employment or for studies or for visits. Of these, 2,500 were permanent residents and 32,500 were temporary residents. About 1,500 of the permanent residents are retired senior citizens (mostly from the United Kingdom) and about 1,000 are married to Cypriot women.

168. Of the 32,500 temporary residents, 16,000 are workers, 3,000 are students and 13,500 are visitors.

169. Of the 16,000 aliens working in Cyprus, 2,700 are working in off-shore companies, 1,800 are married to Cypriots, 3,000 are nannies or domestic assistants, 1,000 are artistes or bar girls, and 7,500 work in tourism, industry, agriculture, construction, clothing and shoes.

Acquisition of immovable property by aliens

170. The right of aliens to acquire immovable property in Cyprus is not the same as that accorded to citizens of the Republic. The right is not absolute and is subject to restrictions regarding the extent of the property to be owned. The relevant law is the Immovable Property Acquisition (Aliens) Law, Cap. 109. Section 3 of the law provides:

> "The Council of Ministers may by order to be published in the Gazette declare that except with the consent of the Council of Ministers first obtained no alien shall, after the date of the order, acquire otherwise than by inheritance, ownership of any immovable property situate within any area prescribed in the order, and any registration effected in contravention of the terms of such order shall be null and void."

Section 4 of the law provides for the making of Regulations for the better carrying out of the provisions of the law into effect. Under the Regulations made (Immovable Property Acquisition (Alien) Regulations of 1972) the extent of the plots into which an alien may divide a property for sale shall not be smaller than one donum and two evlecks (about 2,000 square metres).

171. The criteria for granting to an alien a permit to acquire immovable property refer to the intended use of the property, the extent and the area of the property, and matters relating to solvency and other personal matters. In 1992 the Council of Ministers considered a total of 460 applications of which 408 were approved and 52 were rejected. In 1993 the Council of Ministers considered a total of 1,288 applications of which 1,080 were approved and 208 were rejected.

172. From statistical data a total of 3,431 properties, apartments, houses, villas, buildings, plots and pieces of land are held by aliens.

173. It must be stated that Cyprus is a small island and if the acquisition of its land by aliens is allowed without any control then the local people may one day find themselves without land.

174. Off-shore companies. In Cyprus there are a number of companies which have their offices registered in Cyprus but carry out operations outside Cyprus. They are known as the off-shore companies. In 1992 there were about 1,000 such companies employing 1,942 aliens and 1,795 locals. The off-shore companies enjoy a number of privileges such as lower income tax (50 per cent of the normal rate), no payment of value added tax on anything they buy including telecommunication services, no payment of capital gains tax on the sale or transfer of shares and other benefits. Moreover, off-shore companies, which are totally managed and controlled from abroad, are totally exempt from corporate or income tax. But the real preferential treatment extended to the said companies is enjoyed by the expatriate employees of the companies who unlike the local employees are exempted from the payments of

social insurance and other contributions. Also, they are taxed only on income earned or generated in Cyprus and they are entitled to buy everything duty free including two duty-free cars (whereas locals pay a total of over 100 per cent duty on the price of a car). As far as their residence permit is concerned, a very simplified procedure is being followed and normally legal and accountancy firms undertake to secure their residence employment permits with minimum inconvenience.

Refugees and political asylum

175. The status of refugees is regulated by the United Nations Convention relating to the Status of Refugees of 28 July 1951 and the Protocol of 31 January 1967. Both the Convention and the Protocol are binding on Cyprus. The Convention of 1951 was ratified by the United Kingdom with certain reservations at a time when Cyprus was a British colony. In October 1956 the Permanent Representative of the United Kingdom to the United Nations informed the Secretary-General that following consultation with the governments of other territories for the conduct of whose international relations the Government of the United Kingdom was responsible the Convention was formally extended to the territory of a number of colonies, including Cyprus, with the same reservations as those made by the Government of the United Kingdom.

176. The Government of the Republic of Cyprus, by communication dated 16 May 1963, notified the Secretary-General that it considers itself bound by the Convention relating to the Status of Refugees the application of which had been extended to Cyprus before the attainment of independence. The Government of Cyprus further confirmed the reservation made at the time the Convention was extended to Cyprus by the Government of the United Kingdom.

177. In 1968 the Republic of Cyprus, by enacting the ratifying Law No. 73 of 1968, ratified the Protocol relating to the Status of Refugees. By the said Protocol the meaning of refugee is broadened so as to cover persons who have become refugees as a result of events occurring after January 1951.

178. The reservations made by the Government of the United Kingdom and which were extended to Cyprus and later confirmed by the Government of Cyprus are the following:

"(i) The Government of the United Kingdom of Great Britain and Northern Ireland understand articles 8 and 9 as not preventing them from taking in time of war or other grave and exceptional circumstances measures in the interests of national security in the case of a refugee on the grounds of his nationality. The provisions of article 8 shall not prevent the Government of the United Kingdom of Great Britain and Northern Ireland from exercising any rights over property or interest which they may acquire or have acquired as an Allied or Associated Power under a Treaty of Peace or other agreement or arrangement for the restoration of peace which has been or may be completed as a result of the Second World War. Furthermore, the provisions of article 8 shall not

affect the treatment to be accorded to any property or interests which at the date of entry into force of the Convention for the United Kingdom of Great Britain and Northern Ireland are under the control of the Government of the United Kingdom of Great Britain and Northern Ireland by reason of a state of war which exists or existed between them and any other State.

"(ii) The Government of the United Kingdom of Great Britain and Northern Ireland accepts paragraph 2 of article 17 with the substitution of 'four years' for 'three years' in subparagraph (c).

"(iii) The Government of the United Kingdom of Great Britain and Northern Ireland, in respect of such of the matters referred to in subparagraph (b) of paragraph 1 of article 24 as fall within the scope of the National Health Service, can only undertake to apply the provisions of that paragraph so far as the law allows; and it can only undertake to apply the provisions of paragraph 2 of that article so far as the law allows.

"(iv) The Government of the United Kingdom of Great Britain and Northern Ireland cannot undertake to give effect to the obligations contained in paragraphs 1 and 2 of article 25 and can only undertake to apply the provisions of paragraph 3 so far as the law allows.

179. The provisions of the Convention pertaining to the granting or refusing of political asylum are articles 32 and 33 (to be read together with the definition of refugee). Article 32, under the title "Expulsion", restricts the expulsion of refugees on grounds of national security or public order. It further prescribes the procedure to be followed which, however, seems not to be self-executing and therefore requires legislative regulation. Article 33, under the heading "Prohibition of expulsion or return (refoulement)", sets out certain definite mandatory principles which apparently are self-executing and the authorities are bound to enforce them. It reads:

"1. No Contracting State shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

"2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country."

180. The Government of Cyprus, being bound by the above Convention and the Protocol, formulates its policy on matters of refugees along the lines of its international obligations. It must, however, be stated that a legal machinery has to be set up for determining matters of expulsion both in the first and second instance, provided of course that the words "due process of law" imply a decision after a hearing before a court of law.

181. The procedure followed for the interview of aliens who claim refugee status in Cyprus is the following:

(a) These persons arrive in Cyprus as ordinary visitors and they are granted a temporary (Visitor's) entry visa upon their arrival, at the port of entry;

(b) A person claiming refugee status should apply to the representative of the United Nations High Commissioner for Refugees in Cyprus to consider his case. The interviews are conducted at the Cyprus Red Cross premises in Nicosia and the representative of the International Organization for Migration in Cyprus is informed of the result;

(c) The UNHCR representative in Cyprus informs his headquarters in Geneva about the case of every person interviewed by him and asks for the approval of the application;

(d) If and when an application is approved by UNHCR headquarters, the UNHCR representative in Cyprus is informed and his person's name is placed on the caseload of persons under UNHCR's mandate. It follows that this person can stay in Cyprus until such time as his case for resettlement to a third country is considered and finally approved. In such case this person can apply to stay and work in Cyprus on a temporary basis until his final departure from Cyprus.

Article 14 - Right to a fair trial

182. In Cyprus there is a clear-cut separation of the three authorities (executive, legislative and judicial). The independence of the judiciary is safeguarded by the Constitution and the laws which were enacted providing for the appointment, promotion and transfer of judges. The judiciary does not come under the control or authority of any ministry. It is completely autonomous. The Supreme Court is the highest court in the country exercising secondary jurisdiction as well as original jurisdiction on certain matters relating to administrative acts, the issue of prerogative writs and other specified matters. The President of the Supreme Court is appointed by the President of the Republic. The members of the Supreme Court are appointed in the same manner. They remain in office until they reach the age of 68. They are not removed from office except on the grounds of serious professional misconduct (art. 153.7.(4) of the Constitution). Also under article 153.7.(3) of the Constitution a judge of the High Court "shall be retired on account of such mental or physical incapacity or infirmity as would render him incapable of discharging the duties of his office either permanently or for such period of time as would render it impracticable for him to continue in office".

183. Article 153.8 of the Constitution provides for the establishment of a council with power to decide the above matters. It reads:

> "(1) There shall be established a Council consisting of the President of the Supreme Constitutional Court as Chairman and the Greek and Turkish judge of the Supreme Constitutional Court as members.
>
> "(2) This Council shall have exclusive competence to determine all matters relating to -
>
> "(a) retirement, dismissal or otherwise the termination of the appointment of the President of the High Court in accordance with the conditions of service laid down in the instrument of appointment;
>
> "(b) the retirement or dismissal of any Greek judge or the Turkish judge of the High Court on any of the grounds provided in subparagraphs (3) and (4) of paragraph 7 of this article.
>
> "(3) The proceedings of the Council under subparagraph (2) of this paragraph shall be of a judicial nature and the judge concerned shall be entitled to be heard and present his case before the Council.
>
> "(4) The decision of the Council taken by a majority shall be binding upon the President and the Vice President who shall jointly act accordingly."

184. There is a similar provision in article 133, paragraph 8, for the establishment of a council with the same competence, regarding the President and members of the Supreme Constitutional Court. This council consists of the President of the High Court and the senior in appointment Greek judge and the Turkish judge of the High Court as members.

185. Due to intercommunal troubles which occurred in 1963 the functioning of the Supreme Constitutional Court and of the High Court became impossible and for the purpose of maintaining continuance of the administration of justice a law was enacted (Administration of Justice (Miscellaneous Provisions) Law 1964 (33 of 1964)) merging the two courts into the Supreme Court with the consolidated competence of the two original courts. Under this law a Supreme Council of judicature was constituted for dealing with the matter of appointments, promotion, transfer and termination of service of judicial officers as well as dealing with disciplinary offences committed by such officers.

186. The Council originally consisted of the Attorney-General, the President of the Supreme Court, the two senior members of the Supreme Court, the Senior President of the District Court, the senior District Judge and one advocate with 12 years' practice. The composition of the Council was changed by a subsequent law (Law No. 3 of 1987) and the powers and functions of the Council set out under articles 133.8 and 153.8 of the Constitution were assigned to the Supreme Court.

187. Under Law No. 158 of 1988 the number of the members of the Supreme Court was increased to 13, one of whom is the President.

188. Judicial immunity under article 153.10 of the Constitution is a further guarantee of the independence of the judiciary. It provides:

> "No action shall be brought against the President or any other Judge of the High Court for any act done or words spoken in his judicial capacity."

189. The Ministry of Justice and Public Order, despite the inclusion of the word "justice" in its title, has in fact no direct involvement in the administration of justice or the appointment, transfer and promotion of judges. It is the appropriate ministry for the police, for the prisons and also for the court buildings. It also deals with the revision of the legislation relating to the administration of justice. Occasionally certain complaints are made to the Minister of Justice regarding the administration of justice. Such complaints are simply referred to the Supreme Court or the Attorney-General as the appropriate body for consideration.

190. There are no special courts in Cyprus. In fact, any court which is not composed as provided by the Constitution is unconstitutional. Article 152 of the Constitution provides:

> "1. The judicial power, other than that exercised under Part IX by the Supreme Constitutional Court and under paragraph 2 of this article by the courts provided by a communal law, shall be exercised by a High Court of Justice and such inferior courts as may, subject to the provisions of the Constitution, be provided by a law made thereunder".

Courts dealing with special matters

191. There are, however, courts which deal with specialized matters. They are the Industrial Dispute Tribunal, the Military Court, the Rent Tribunal and the Family Courts.

192. The Industrial Dispute Tribunal is composed of a President appointed by the Supreme Court and two assessors. The Court comes under the control of the Supreme Court. The decisions of the Court are subject to appeal to the Supreme Court. (The Court is constituted under the Annual Leave with Pay Law, 1967 (8 of 1967).)

193. The Military Court is constituted under the Military Offences and Military Criminal Procedure Law (40 of 1964). It is a first instance court with a very limited jurisdiction over civilians. It is composed of three judges and has jurisdiction to try military offences committed in the Republic. In particular, the jurisdiction of the Military Criminal Court is set out in section 112 of the law and is exercised when the offences are committed by military officers in the course of their duties, prisoners of war, deserters, conscripts for offences under the National Guard Law of 1964 (as amended).

194. Civilians are under the jurisdiction of this court only when, in time of war or other emergency, they commit offences in the course of providing useful

services to the army or they are exercising a business for the army. As has already been mentioned, a state of emergency has never been declared since Cyprus became a Republic in 1960.

195. Also, crucial for ensuring the constitutional rights of civilians is the fact that criminal prosecution under this law is exercised by the Attorney-General in the name of the Republic.

196. Finally the jurisdiction of the Military Court can always be challenged (art. 15) and in that case the dispute will be resolved by the Supreme Court, thereby providing a guarantee that no usurpation of power will be exercised by this Court.

197. The Rent Tribunal Court is composed of a single judge and determines matters connected with rent control. The judges of the Court are appointed by the Supreme Court. The decisions of this Court are subject to appeal to the Supreme Court.

198. The Family Courts were set up only recently for the purpose of giving the right to Greek Cypriots to have matters relating to dissolution of marriage be determined by secular courts. The setting up of the Family Courts necessitated the prior amendment of the Constitution under which matters relating to marriage and its dissolution were within the exclusive jurisdiction of the ecclesiastical courts. This is the first and so far the only amendment to the Constitution. Greek Cypriots can now have a civil marriage or a church marriage. The Family Courts can dissolve a church marriage.

199. In Cyprus there are also certain small religious groups. These are the Armenians, the Maronites and the Latins. The Armenians belong to the Eastern Orthodox Church which permits divorce. The Maronites are Catholics and come under the jurisdiction of the Catholics having their Seat in Lebanon. Divorce is not recognized by this church. The Latins are a small group who are Roman Catholics coming under the jurisdiction of the Vatican. The divorce, as for the Maronites, is not permissible. For the purpose of according all citizens equal treatment, a bill has been prepared (which has been laid before the House of Representatives for consideration and enactment) providing for the establishment of Family Courts for the religious groups. The Court will have power to dissolve marriages between members of the aforesaid groups.

200. Open trials. Trials are invariably open to the public and are only conducted in camera if the court so rules. The court usually does so if it considers that such a course will be in the interests of the orderly conduct of the proceedings or if the security of the Republic or public morals so require (art. 154 of the Constitution). The judgements are always delivered in open court. The openness of hearings is not confined to trials but covers other areas of judicial or quasi-judicial functions. One of them is the holding of public inquiries under the Commission of Inquiries Law (Cap. 44). Also, complaints against police officers before a board set up under the Police (Discipline) Regulations of 1989 are heard in open sittings.

201. A suspect is treated not only by the courts but also by law enforcement and other authorities as innocent, but this does not mean that a public

officer under suspicion may not be suspended until the termination of the trial if his remaining in office may prejudice the interest of justice or the outcome of the trial.

202. No imprisonment imposed in absentia. In Cyprus a person is not committed to prison and no order is issued directing him to do or refrain from doing anything and no order is made entailing confiscation of property or disqualification from holding a licence to drive unless that person is present in court.

203. The procedure followed prior to trial (in summary trials) is to serve the suspect with a summons calling him to appear before the court on a fixed day. If he does not appear and there is proof of service of the summons, the court may either issue a warrant for his arrest or, if the case is not of a serious nature and the contemplated punishment is pecuniary, it proceeds to hear evidence proving the facts on which the charge is based. Even at this stage if a more severe punishment is more suitable to the case, the court may adjourn the case and issue a warrant for the arrest of the suspect for the purpose of his being brought before the court.

204. In serious cases (trials by Assizes) the suspects are either kept in custody until their trial or are allowed to be at large on recognizance with or without sureties.

205. No criminal case can reach the stage of trial without proof of service of the summons or when it is practically impossible to bring the suspect before the court.

206. Miscarriage of justice. Judges hear complaints or allegations of violations of the rights of the accused even if this may prejudice the case of the prosecution in certain respects. If, for instance, a search is carried out contrary to law, anything found as a result of the search cannot be produced in evidence.

207. A very recent example of the respect the courts have for the protection of the human rights of individuals is the acceptance of a motion made by the accused in a criminal case to the effect that the fairness of the trial was prejudicially affected by the extensive publicity the mass media had given to the case amounting to pre-judging the result of the case. However, upon appeal the ruling of the trial court was reversed.

208. Incidents of miscarriage of justice in Cyprus are rare probably because the judges are legally qualified and trained and also because of the safeguards accorded to the accused for a fair trial and because of the well-tried evidentiary system used by the courts.

209. It would be too presumptuous to say that there are no miscarriages of justice, but there are no such reported cases. If such a case does occur there is no legal right of the unjustly convicted persons to claim damages. However, the Government would probably pay fair compensation to the victim in the same way it compensates, with or without admission of liability, victims of criminal acts or victims of misadventure.

210. The following are some examples of gratuitous payments made by the Government to persons who suffered injuries or lost their lives unjustly, due to no fault of their own:

(a) Compensation was paid to the relatives of a customs officer who was guarding a ship under arrest. The ship was stolen and the customs officer was thrown overboard and was drowned;

(b) Compensation was paid to a person injured by the bombing of a car, obviously by terrorists;

(c) Compensation was paid to the relatives of a man who was drowned in an attempt to save another person from drowning.

211. Victims of violent crimes. The Government of the Republic of Cyprus has acceded to the European Convention for Compensation to Victims of Violent Crimes providing for the payment of compensation to victims of violent crimes in cases where no compensation is obtainable from other sources. Following this a bill has been prepared entitled Compensation to Victims of Violent Crimes Law, providing for the payment of compensation for such victims. The bill provides for medical treatment up to 500 pounds, payment of disability pension, pension to dependents in case of death and funeral expenses. No compensation is payable under this law if the victim is involved in organized crime, he is a victim of his own criminal action, the crime was not reported within five days from its commission or if the victim does not cooperate with the police. The bill has already been sent to the Council of Ministers for approval.

Article 15 - Retroactive punishment

212. Nothing further to add.

Article 16 - Recognition as a person before the law

213. Nothing further to add.

Article 17 - Privacy

214. The right to private life, communication and correspondence is safeguarded by articles 15, 16 and 17, the latter article being a stringent one not allowing even the enactment of a law authorizing interference with communication for the purpose of detection of crime even if it is done under judicial authorization and control.

215. The part of the Constitution of Cyprus safeguarding human rights is based on the Rome Convention (European Convention). Article 17 of the Constitution is a departure from the corresponding article of the European Convention (art. 8) and it is more restrictive for the Government. As has been stated in the second report, the Government cannot enact a law for surveillance of conversations or communication between drug traffickers except where the Constitution so permits. In consequence of this the respect of correspondence

and communication has been stretched to such an extent that in effect it affords coverage for illegal activities. Article 17 of the Cyprus Constitution reads:

> "1. Every person has the right to respect for, and to the secrecy of, his correspondence and other communication, if such other communication is made through means not prohibited by law.
>
> "2. There shall be no interference with the exercise of this right except in accordance with the law and only in cases of convicted and unconvicted prisoners and business correspondence and communication of bankrupts during the bankruptcy administration."

whereas article 8 of the Rome Convention reads:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> "2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

216. However, the following steps are being considered regarding interference with communications:

(a) To amend article 17 of the Constitution so as to open the way for the taking of legislative measures regulating the interference with conversations and communications under strict judicial control for the purpose of prevention or detection of crime;

(b) To make the unauthorized interference with communications by private individuals an offence subject, of course, to certain exceptions;

(c) A bill is in the final stages of enactment which provides for the controlled delivery of drugs and other prohibited substances. One of the main objectives of the law is to clarify that certain acts when done for the purpose of controlled delivery (as defined in the United Nations Convention against Illicit Traffic of Narcotic Drugs and Psychotropic Substances) and further to make admissible in the Cyprus courts evidence obtained by certain actions, including wire-tapping under judicial control, which are legally permissible in the country where they were done but not in Cyprus where they are offered as evidence;

(d) A bill, entitled Protection of Private Communication (Surveillance of Communication) Law, has been prepared for interference with communication on the very few limitations permitted by article 17 of the Constitution. The respect of communication and secrecy may be interfered with in cases of bankrupts and convicted and unconvicted prisoners, and in relation to the business correspondence and communications of bankrupts during the bankruptcy administration.

217. The authorities conform strictly to the provisions of this article and if there is any disregard the fact can freely be reported to the court in a pending case or it may give rise to a civil action.

218. A very strong guarantee for the respect of this right (and all civil and political rights) is the press which enjoys such freedom and privileges which render it a formidable sentinel over indiscretions on the part of the authorities. For more details see article 19.

219. Moreover, it must be mentioned that under the law in force the publishing of improperly obtained confidential information from government records is not an offence. There is an exception regarding military secrets but not information relating to individuals, and this of course cuts both ways. On the one hand, it gives the press, relying on improperly obtained information, the right to criticize the authorities, but on the other hand this may amount to interference with the right of an individual to privacy, if he does not consent to such publication. These matters are fully dealt with in a bill providing for the right of citizens to be informed on public matters while protecting certain information of a secretive or sensitive nature from being disclosed. The bill is entitled "Information and Official Documents Law".

220. The following laws contain provisions relating to the right of the authorities to interfere with correspondence or communication in certain cases. But it must be stated at the outset that these laws were enacted prior to the Constitution coming into force and they have to be applied and interpreted in the light of the constitutional interpretative provisions (art. 188).

221. Under the Post Office Law (Cap. 303) certain powers of interference are given to the authorities. Section 19 gives customs officers the power to open and examine parcels sent by post from abroad for the purpose of assessing the customs duties to be charged thereon. Section 20 gives the Postmaster General the power to retain postal packets that contain goods whose importation is prohibited and to open them in the presence of the addressee. Section 31 makes it an offence for post office employees to open postal packets when not called upon to do so as part of their duties.

222. The Telegraphs Law (Cap. 305) contains provisions enabling the Council of Ministers to take possession of telegraphs or telegraph lines and to order interception, disclosure or production of telegraphs in a public emergency or in the public interest (sect. 6). Under section 7 of the Criminal Procedure Law (Cap. 155) the Council of Ministers may require the production of telegrams if during the investigation of an offence it appears to it that such a course is expedient in the public interest.

223. Cyprus has not as yet ratified the European Convention concerning the protection of individuals with regard to automatic processing of personal data. However, the Ministry of Justice and Public Order, in cooperation with the Office of the Attorney-General and the Law Commissioner, are considering the enactment of legislation incorporating therein provisions from the Convention as well as from certain Recommendations of the Committee of Ministers on the Protection of Personal Data used for Payment and Other Related Operations.

224. In the contemplated law, provisions similar to articles 7 and 8 of the aforesaid European Convention will be included regarding data security and additional safeguards for the data subject.

225. During the conference held in Athens in respect of the aforesaid Convention a model law was prepared for the implementation of the provisions of the Convention. The said model may be used as the basis of the contemplated legislation in Cyprus. In particular provisions will be included in the new law:

(a) For measures ensuring that personal data do not reach the hands of unauthorized persons;

(b) For machinery facilitating the individuals concerned in ascertaining what personal data are stored in automatic data files, for what purpose and by what authority;

(c) For according individuals the right to request rectification or deletion of private information relating to them.

226. In addition to the provisions contained in the Criminal Code, Cap. 154, relating to criminal libel, an individual whose reputation has been offended by libellous utterances and publications also has the right to claim damages and an injunction in the civil courts. The relevant provisions contained in the Civil Wrongs Law, Cap. 148, are:

Section 17 - Defamation;

Section 18 - Publication of defamatory matters;

Section 19 - Special defences to action for defamation;

Section 20 - When publication of defamatory matters is absolutely privileged;

Section 21 - When publication of defamatory matters is conditionally privileged;

Section 22 - Unintentional defamation;

Section 23 - Mitigation of compensation for defamation;

Section 24 - Special defence in case of defamatory matters published in newspapers;

Section 25 - Injurious falsehood.

Article 18 - Freedom of religion

227. The position regarding the compulsory military service of conscientious objectors has been changed by Law No. 2 of 1992 which amends the National Guard Laws of 1964 to 1989.

228. In particular, a conscientious objector, who has been recognized as such by a decision of the Minister, shall perform an "unarmed military service without military uniform and outside military area" (which means military service in an area which is not under the command or control of the Commander of the Force and without the obligation to carry weapons or wear military uniform) or an "unarmed military service with military uniform and within military area" (which means military service in an area which is under the command or control of the Commander of the Force and with the obligation for a military uniform to be worn, but without the obligation to carry weapons).

229. Armed military service with military uniform and within military area is of a duration of 24 months; "unarmed military service without military uniform and outside military area" is of a duration of 42 months and unarmed service with military uniform and within a military area is of a duration of 34 months.

230. However, bearing in mind the concern expressed by the Human Rights Committee during the examination of the second periodic report of the Republic, the Law Commissioner has made a proposal for the amendment of the National Guard Laws in the following respects:

(a) The objection to be raised before the machinery for conscription is set into motion;

(b) The objection to be made to the civil and not to the military authorities;

(c) If the objector is found to be a genuine conscientious objector to be allowed to serve in alternative non-military service for a longer period than normal service;

(d) Non-military service to be defined so as to be clear to the objector where he is required to serve;

(e) The period of service for non-military service to be 38 months (instead of 42) as compared to 24 for normal military service;

(f) The punishment for refusal to appear for conscription contrary to the provision of the law to be increased from two to five years but with a proviso to the effect that:

(i) Sentence of imprisonment not to be imposed for the first offence, and

(ii) The aggregate of sentences of imprisonment for subsequent similar offences (persistent refusal) not to exceed the maximum penalty provided by the law (five years).

Article 19 - Freedom of expression

231. Under the Press Law of 1989 (145 of 1989) a journalist, local or foreign, has the right to seek and obtain information from private sources without any obstruction from State organs, and further has the right to publish freely

such information unless reasons concerning the safety of the Republic, the public and constitutional order, the public safety or the protection of the rights of third persons dictate the contrary.

232. Journalists also have the right to seek and publish information obtained from State sources and the authorities have an obligation to supply the information sought unless there are reasons of safety for refusing to do so.

233. Section 8 of the law provides for the journalist's confidentiality. However, a journalist may be ordered by a court trying a criminal case or by a coroner conducting an inquest to disclose the source of information if it is shown to the satisfaction of the court or of the coroner that:

(a) The information clearly relates to the criminal offence, the subject-matter of the trial;

(b) The information cannot be obtained by other means;

(c) The disclosure of the information is dictated by superior, imperative reasons of public interest.

234. Section 39 of the law imposes on the editors of a newspaper the obligation to publish any reply to an article published in the newspaper. The reply is published free of charge and within three days from the publication of the article in question.

Licensing of radio, television and cinema

235. The following laws have been enacted to regulate the licensing and operation of radio and television stations: the Radio Stations Law, No. 120 of 1990; the Television Stations Law, No. 29 (I) of 1992. Both laws provide that no radio or television station may operate without a licence issued by the competent authority. The interested party applies for a licence to the Council of Ministers which is the competent authority for issuing a licence.

236. In issuing or renewing the required licences, the competent authority must ensure that the letter and spirit of these laws are adhered to. Therefore, in doing so, it takes into account, inter alia, the abilities, experience and knowledge of the regular associates of the station, the commitments the proposed or existing station has made in promoting education and entertainment and in imparting objectively information to the public, as well as the possibility of the station honouring these commitments.

237. Every licence for a radio or television station is issued subject to such terms and restrictions as the competent authority thinks proper to impose. The application for acquiring a licence under these laws is examined, at a first stage, by the Committee established by the Radio Stations Law of 1990, which submits an advisory report to the competent authority. The licence will be valid for a period of 3 years in the case of a licence for radio stations and 10 years in the case of a licence for a television station, unless revoked earlier. A licence is revoked if the radio or television station has violated, inter alia, the terms of the licence or specific provisions of the Criminal Code. When the licence expires it can be renewed if certain

conditions are satisfied. These conditions relate mainly to objectivity and polyphony in imparting information, to the good quality of programmes, to the safeguard of the quality of the language, to the respect for the personality, reputation and private life of a person, and generally to the respect of democracy and human rights.

238. The Municipalities Law (No. 111 of 1985) provides that no theatre or other place may be used for the purposes of a theatrical or dancing performance or for releasing a cinematographic film without a licence issued by the Municipal Council. This licence is in the form prescribed by this law and may be subject to the terms of this form of licence or to any special terms that the Council may think proper to impose. The terms set out in the form of this licence provide generally for the installation of lighting or ventilation systems and fire engines.

239. Cinematographic films are subject to censorship. This is done under the Cinematograph Film Law, Cap. 43.

Article 20 - War propaganda

240. The relevant provisions in the Criminal Code are:

Section 40 - Preparation of war or warlike undertaking;

Section 42 - Inciting to mutiny;

Section 51 - Encouraging violence and promoting ill will.

Article 21 - Freedom of assembly

241. Following discussion with representatives of the Ministry of Justice and Public Order, the Law Commissioner prepared a draft bill for the repeal and substitution of the Assemblies and Processions Law, Cap. 32. Under the proposed bill assemblies not exceeding 20 persons are freely held but if the number is expected to exceed 20 then notice should be given to the appropriate authority. Processions are held subject to a notice being given to the appropriate authority.

242. The appropriate authority may impose conditions on any procession or assembly for which notice has been given under the law. Such conditions should be absolutely necessary to prevent disruption of life, serious damage to property and public disorder.

243. There is a provision in the proposed bill for the issue of an order prohibiting public assemblies and processions in any part of the Republic when the imposition of conditions is not considered sufficient for preventing public disorder. The order is issued by the Minister of Justice and Public Order at the recommendation of the appropriate authority. The order is only valid for a period of two months. If the prohibition would affect the whole area of the Republic the order is issued by the Council of Ministers and may be of a duration of not more than three months.

244. Funeral processions are exempted under the proposed bill. The Minister of Justice and Public Order may also exempt from the provision other kinds of processions.

Article 22 - Freedom of association

245. Nothing more to add.

Article 23 - Freedom to marry

246. In Cyprus the term "family" has a different meaning according to the context in which it is used. The restricted meaning is to be found in the laws for the protection of children and it means the father, the mother and the children. It has the same restricted meaning when reference is made to the marital or family home. Under the law for the Prevention of Violence in the Family it covers father, mother, children and grandparents.

247. Traditionally in Cyprus the grandparents reside with their children and this finds its roots in the dowry-giving, a custom prevailing on the island although to a lesser extent now than in former days. Hopefully, this will disappear in the next decades. The parents usually give their property, including their marital home, to their daughter in consideration of her marriage and the two couples reside in the same house or the parents move to another house. This worked in the past more or less satisfactorily until the wife ceased to be the sole caretaker of the household and of the ageing parents and other arrangements had to be made for the care and accommodation of the parents. It is in this context that one must see the notion of "home", which in effect is the home of the family or families living in it from time to time.

248. See also comments made with regard to aliens (art. 13).

249. Marriageable age. Under the Constitution any person reaching nubile age is free to marry under the Marriage Law, Cap. 279. The consent of the parents or guardians is only required if the party wishing to be married is under 21 years of age. Under Turkish Family Law, Cap. 339, the marriageable age is 18 for men and 16 for women (as far as we have been able to ascertain). Under the Civil Marriage Law (Law No. 21 of 1990) the marriageable age is 18 but the marriage of persons being 16 and 18 may be permitted with the consent of the parents.

Article 24 - Children

250. Age of criminal responsibility. According to section 14 of the Criminal Code, Cap. 154 of the Laws of Cyprus, a person under the age of seven years is not criminally responsible for any act or omission. A person between the ages of 7 and 12 years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or omission he had the capacity to know that he ought not to do the act or to make the omission. Furthermore, under the same section, a male person under the age of 12 years is presumed to be incapable of having carnal knowledge.

251. The age of criminal responsibility was the subject of concern in the past and in a special law revision committee set up by the Minister of Justice in 1987 it was thought appropriate to raise that age from 7 to 10 years. The matter has been set for discussion on the agenda of the committee responsible for the preparation of reports to committees constituted under the international conventions.

252. Treatment of children offenders. The Juvenile Offenders Law, Cap. 157, deals with children offenders (under 14 and not over 16 years). It treats them differently from adult offenders taking into account their tender age and their welfare and rehabilitation. Under this law, cases against juvenile offenders are heard by a Juvenile Court sitting in a different building or different room from that in which the ordinary sittings of the District Court are held, or on different days or at different times from such sittings, and privacy is fully respected at all stages of the proceedings. Also, the Court must explain in simple language to the child or young person brought before it the substance of the alleged offence. Furthermore, the Court invariably obtains information as to the child's or young person's general conduct, home surroundings, school record and medical history.

253. With the aim of emphasizing prevention rather than punishment, a new procedure was adopted in 1978 for dealing with juvenile delinquents in cooperation with the police and the Attorney-General, so as to avoid penal measures for persons under 16 years of age. The essence of the procedure is to treat such cases as children needing help rather than dealing with them as young offenders. The handling of such cases is usually entrusted to the Welfare Department, the services of which are offered to the whole family of the child concerned.

254. Children deprived of their liberty. Special measures are taken when children are deprived of their liberty. Under section 7 of the Juvenile Offenders Law, Cap. 157, a court, on remanding or committing for trial a minor who is not released on bail, shall, where practicable, instead of committing him to prison, commit him to custody in a police station. The police have the duty to make arrangements for preventing the association of the minor with adult detainees.

255. When dealing with cases where children and young persons are suspected of having committed an offence, the police make certain that the parents or guardians as well as the Divisional Police Commander are promptly informed. Where the suspect is a pupil, arrest and examination at school is usually avoided and when such a course is absolutely necessary, it is carried out only with the consent and in the presence of the schoolmaster.

256. Sentencing of juveniles. There are special measures for the sentencing of juvenile delinquents. According to section 12 of the Juvenile Offenders Law, Cap. 157, where the court before which a child or young person is tried for any offence is satisfied of his guilt, it may deal with the case in any of the following ways:

(a) By dismissing the charge;

(b) By committing the offender to the supervision of a probation officer under the provisions of the Probation of Offenders Law, Cap. 162. (The task is entrusted to the Department of Welfare Services of the Ministry of Labour and Social Insurance);

(c) By committing the offender to the care of a relative or other fit person;

(d) By sending the offender to a reform school (see para. 258 below);

(e) By ordering the offender to pay a fine, damages or costs to which he is liable. The court may, and where the offender is a child, shall, order that the fine, damages or costs be paid by the parents or guardian;

(f) By imposing a sentence of imprisonment. By express provision in this section no child shall in any case be sentenced to imprisonment and no young person shall be sentenced to imprisonment if he can be suitably dealt with in any of the ways set out above.

257. In fact, it can safely be stated that it has been and still is a policy to use non-custodial sanctions in substitution of custodial ones. A series of judicial decisions over the last 25 years suggest that imprisonment should be a measure of last resort and, in the case of young offenders, a measure to be avoided, unless considered inevitable in view of the gravity of the offence or persistent recidivism.

258. It should be mentioned that part of the policy of abolishing institutional/custodial treatment for juvenile offenders was the closing down in 1987 of the only reform school in Cyprus, which had no inmates at the time.

259. Young offenders sentenced to imprisonment are held separately and do not associate with adult prisoners.

260. Capital punishment for premeditated murder was abolished in Cyprus in 1983 (Law 86/83). Even before its abolition the death penalty, under the Criminal Code, could not be pronounced on or recorded against a person who at the time when the offence was committed was under the age of 16 years. As has already been mentioned a bill for the abolition of the death penalty in all cases except the offence of treason during wartime has been prepared.

261. By virtue of article 53 of the Constitution of Cyprus, the President of the Republic may, on the recommendation of the Attorney-General, remit, suspend or commute any sentence passed by a court of law in the Republic.

262. Prison Regulations provide for the remission of sentences for good conduct and industry.

Main legislation

263. The main legislation on matters of child welfare is administered by the Department of Social Welfare Services and aims at safeguarding the welfare of

all children. The Children Law, Cap. 352, is one of the main laws concerning children. The major provisions of this law may be outlined as follows:

(a) It ensures the protection and care necessary for a child's well-being;

(b) It provides for the removal from home and protection of children who are either neglected, abandoned or cruelly treated, exposed to moral and physical danger or are out of the control of their parents or guardian;

(c) It ensures by means of State supervision that institutional services and facilities responsible for the care of children conform to the standards established by the State particularly in the areas of safety, health, suitability and competence of staff;

(d) It provides for the supervision of children in their home if problematic family circumstances fail to provide for adequate family functioning, thus ensuring that children's basic needs are sufficiently met.

264. Safeguards for the best interests of the child are provided in particular in the law on the Relations between Parents and Children which was enacted in November 1990 (Law No. 216 of 1990). A major significance of this law is the fact that the paternal authority over children, which prevailed in previous legislation, was replaced by the parental care of both parents which is exercised jointly for the best interests and well-being of the child. According to the same law, every decision made by parents regarding the exercise of parental care, and decisions of the court as to which parent is to be granted the custody of a child, must aim at and consider first and foremost the best interest of the child. No prior legislation has emphasized this principle so explicitly and with such resoluteness.

265. There are, however, occasions where efforts to promote the best interests of a particular child are hampered when safeguarding them may involve the violation of the rights of the parents. An example is the case where the law requires that a child is only placed for adoption if the parents have consented to it regardless of whether they are considered to be permanently unfit to ever provide care and protection to their child and regardless of whether or not they show any interest in their child, and in fact the child has been removed from home and is either fostered or is placed in an institution. The respect of the parents' rights in such a case clearly deprives the child from the possibility of receiving permanent substitute care through adoption. There is provision in the relevant law giving the Court the right to dispense with the consent of the parent in very special circumstances, but it is very rarely, if at all, made use of.

Economic and employment exploitation of children

266. The Children and Young Persons (Employment) Law, Cap. 178 (as amended by Law No. 239 of 1990), provides that:

(a) No child under the age of 15 shall be employed in any occupation;

(b) No child (i.e. under the age of 16) shall work or be employed in any industrial undertaking;

(c) No child or young person shall work or be employed in any underground occupation or in mines.

The Children and Young Persons (Employment) Law, Cap. 178, expressly prohibits the employment of children and young persons in a number of trades and occupations, listed in Parts I, II and III of the Schedule to the Law, which are likely to jeopardize their health or safety.

267. Further to the above the implementation of article 32 of the Convention on the Rights of the Child, which has been ratified by Law 243 of 1990, is ensured through:

(a) The various provisions of the Children and Young Persons (Employment) Law, Cap. 178;

(b) The Annual Holidays with Pay Laws (1967 to 1980), guaranteeing the right of every employee (including persons under the age of 18) to a minimum of annual holiday with pay;

(c) The collective trade and industrial agreements in which there are provisions specifying, inter alia, minimum wages for young workers and apprentices under the age of 18;

(d) Specific vocational training schemes specially geared towards the needs of young persons.

Notwithstanding the above legislation and other measures, it is pointed out that in practice the vast majority of persons under the age of 18 attend full-time primary education.

Drug abuse

268. All provisions of the law which are related to the illegal use, possession and trafficking of narcotics concern all persons regardless of their age. However, the problem among young people remains one of the most serious problems and one of the major concerns of the authorities in many countries. Despite the fact that Cyprus is the crossroads of drug trafficking and the fact that a large number of tourists visit the island every year, we are still not facing a real problem of drug trafficking and addiction.

269. The police are taking steps in the field of prevention, information and education in cooperation with voluntary associations and other governmental departments. Preventive work is effected in cooperation between the police, social services, schools and associations.

270. The Government of the Republic has recently revised its legislation regarding narcotic drugs and psychotropic substances by increasing the sentences (the Narcotic Drugs and Psychotropic Substances (Amendment) Law, 20 (I) of 1992) for all narcotic offences and by enacting new legislation providing for the confiscation of the illicit proceeds from drug trafficking

(Forfeiture of Proceeds from Illegal Trafficking of Drugs and Psychotropic Substances Law, 39 (I) of 1992) and for the treatment and rehabilitation of drug dependents (Treatment and Rehabilitation of Drug Dependents Law, 57 (I) of 1992). In the last-mentioned law a person under the age of 18 may, upon application to the court, be ordered to be confined in a detoxification centre for the purpose of detoxification and rehabilitation.

Sexual exploitation, sale, trafficking and abduction

271. The Criminal Code, Cap. 154, contains provisions whereby the following acts are offences:

(a) Unlawful abduction of unmarried girl under the age of 16 years, out of the custody or protection of father, mother or guardian and without their consent (sect. 149);

(b) Defilement or attempt to defile females under the age of 16 years (sect. 154);

(c) Allowing a child or young person to frequent a brothel (sect. 158);

(d) Unnatural offences against children under 13 years of age (sect. 174);

(e) Unlawful abandonment or exposure of any child under the age of two years endangering thereby the life of the child or permanently injuring its health (sect. 181);

(f) Unlawful and intentional stealing of children under the age of 14 years (sect. 185);

(g) Kidnapping of male children under the of 14 years or females under the age of 16 years (sect. 246).

272. The whole part of the Criminal Code dealing with sexual offences is currently under review.

273. In the law recently enacted for the prevention of violence in the family, the sentence for the offence of incest, if committed on a child (under 18 years of age), is increased from seven years' imprisonment to life imprisonment.

Measures necessary to foster the development of their personality

274. Parental guidance and responsibility. In Cyprus family social policy is based on the principle that family life is the most important setting for the socialization of a child and recognizes the fundamental role the family has to play in the biopsychosocial development of the child. In consequence, a very central place in social welfare policy is attributed to preventive services. Counselling is provided to families for the purpose of guiding them as to the exercise of the parental role and enabling them to function more adequately for the benefit of the children. The law on the Relations between Parents and Children clearly recognizes that "the care of the child is the duty and

right of the parents who shall exercise this jointly" (sect. 5 (i)). At the same time, however, the Government acknowledges that in our times, where more and more women are entering the labour force, parents need to be strengthened and supported by means of practical assistance to ensure that they fulfil their role as best as they can. This principle is within article 18, paragraphs 1-2, of the Convention on the Rights of the Child.

275. During the past years grater emphasis has been placed on the provision of concrete services to families and more and better child-care resources have been made available with the aim of assisting and enabling families - parents in particular - in performing their child-rearing responsibilities. In this way, the role of parents, which is increasingly becoming more complicated because of increased demands on the family due to rapid social changes, becomes more manageable. Some of these programmes which are run by the State are the following:

(a) Day-care centres. The State runs a limited number of day-care centres for preschool children. Priority for attendance is primarily given to children of working mothers. However, the involvement of the community and local authorities is actively pursued in the areas of problem prevention in general. The State provides financial and technical assistance to local authorities and voluntary organizations in order that they may set up and run community programmes for children, such as day-care centres for preschool as well as school-age children. A recent survey which was carried out by the Department of Social Welfare Services has shown that a considerable number of school-age children - below the age of 11 years - stay at home alone and unsupervised, while waiting for their parents to return from work. This finding alerted the Department which in turn alerted local authorities in areas where the facilities for school-age children are not sufficient, in consequence of which in the last few months alone nine new community day centres for school-age children have started operating, increasing the total to 21. The Ministry of Education for its part has been expanding pre-primary education to meet the needs of preschool children. As places are limited, priority is given to children of working parents. The government support has taken the form of setting up new public nursery schools, subsidizing community nursery schools, encouraging and assisting private nursery schools, and initiating and facilitating the establishment of leisure centres or children's clubs to occupy children of working parents in the afternoons after school hours. Although in the past, most nursery schools operated in the morning (7.30 a.m. to 1.30 p.m.), during the last three years the daily programme has expanded to cover additional afternoon hours in order to provide care as well as education to children of working parents;

(b) Home-help services for families with children. This programme is a rather new development and its purpose is to meet the needs of families, facing numerous problems and in particular:

(i) To help families develop housekeeping and social skills in order that they may carry out their roles more effectively and gradually assume their responsibilities in the house;

(ii) To promote protective care for abused or neglected children where mothers may be taught how to care for their children;

(iii) To provide other assistance and facilities (assuming the role of a "substitute mother") in cases where the mother has to be temporarily hospitalized and the father is not in a position to undertake responsibility for the care of the children. This, in effect, prevents the removal of children from their homes;

(c) Day care in foster families. This service was introduced recently. Selected foster families care for children who have special needs and come from problematic families. Special help and positive experiences are provided in a healthy environment for the whole day or part thereof, at the same time partially relieving the family from the stress of having to constantly look after a child with special needs. Again, in this way the removal of the child from home can be avoided.

Separation from parents

276. Even though every effort is made to keep children at home with their own families, this is not always possible. The Director of the Department of Social Welfare Services is empowered by the Children Law, Cap. 352, to take into his care children who are in need of care and protection and must be removed from their home. Where parents do not consent to their child being taken into the care of the Director, a court order is obtained. In an emergency, the Director can proceed and place a child under his care and even assume parental rights for the child (e.g. in cases of child abuse) without going through the motions of court proceedings. In the event of this happening without the parent's consent, the parent has the right to object to the assumption and the court will then decide whether the assumption was rightfully made or not. It is to be noted here that the Department of Social Welfare Services is very sensitive to the rights of the child and its parents to maintain contact between them and sees that this is safeguarded. It is in very rare cases that such communication is not encouraged. This may happen when such contact is considered to be against the best interests of the child. In order to encourage contact, the Department reimburses the parents' travel expenses so that their efforts to retain personal contacts with their child are not impeded owing to reasons of financial difficulties.

277. Moreover, the Parents and Children Relations Law 1990, which provides that the parental care must be exercised jointly by both parents for the best interest of the child, provides also that in cases of divorce, annulment of marriage or separation of the parents, the court decides to whom the parental care should be given. In such a case, the court takes into consideration, among other things, the interest of the child and also hears his/her views. However, if parental care is not exercised properly by either parent, it can be taken away by the court. If parental care is taken away from both parents, the court can appoint a guardian to whom parental care is given.

278. In Cyprus there is one category of children whose right to have regular contact with their parents is being violated. These are the children whose parents live in the occupied part of the island where there are no secondary education facilities. These children are either deprived of secondary education or are separated from their parents in order to attend secondary schools in the free areas. They live in boarding houses run by the State and

the younger ones are only allowed by the occupying forces to visit their parents during festive periods (Christmas, Easter). Older children are not allowed to visit at all while those wishing to return to their homes on completion of their education are prevented and are therefore obliged to live in the Government-controlled areas away from their families.

Family reunification

279. If it is considered in the best interests of a child living apart from its parents in another country to reside with its parents, then efforts are being made for family reunification. Before any final arrangements are made to this end, however, the Department has to be satisfied that circumstances in the natural family permit such a family reunion. Where parents and children reside in different countries, the International Social Service has a substantial role to play in liaising between the parties involved. The Department works quite closely with this organization in all matters concerning children.

Recovery of maintenance for the child

280. The Relations between Parents and Children Law provides that "parents have an obligation to maintain their children each one according to his or her ability". In cases where the parents have separated or are divorced, the non-custodial parent pays maintenance for his child based on his financial resources. Failure to meet this obligation is an offence and the State employs the appropriate mechanisms to ensure that the parent involved abides by his legal obligations.

281. It should be noted that in 1978, Cyprus ratified, by Law No. 50 of 1978, the Convention on the Recovery Abroad of Maintenance according to which maintenance orders can be enforced on the principle of reciprocity. In addition to the above, the Republic of Cyprus has signed bilateral agreements with a number of countries which provide for the registration and enforcement of maintenance orders.

Children deprived of a family environment

282. As already mentioned, the Children Law, Cap. 352, provides for the removal from home and protection of children who, for their own best interests, cannot be allowed to remain in their family environment. The Department of Social Welfare Services makes provisions for alternative care for such children. The various programmes available are described below.

283. Foster families. In accordance with the Children Law, Cap. 352, the Department is responsible for the study and selection of foster families with which it places children for payment. When placing a child, due regard is paid to the child's ethnic and religious background. Mixed marriages are recently on the rise in Cyprus; this is a new development becoming more and more a matter of concern and has caught us somewhat unprepared. There have been cases, albeit few and far between, where it had not been possible to place a particular child with foster parents of the same religious affiliation.

284. Foster parents are regularly supervised by social workers to make sure that all the needs of the child, physical and mental, are duly met. A total of 109 children are at present in foster homes.

285. Group foster homes were introduced in 1986 and are used mainly in cases where more than one child from the same family are taken into care. In this way, siblings are able to stay together. Group foster homes operate with governmental or other voluntary support.

Institutional care

286. Other facilities providing substitute care to a child whose parents cannot or will not perform their parental role are the residential institutions. The Department of Social and Welfare Services operates:

(a) Four Children's Homes, one in each district, for children aged 5-14 years. These Homes are small enough to create a family atmosphere and intimate and personal relationships can thus be cultivated;

(b) One Boy's Hostel for delinquent or pre-delinquent boys of 12-18 years;

(c) A home for severely retarded children aged 5 to 16 years.

287. Apart from the above State-run services, homes for children with special needs have been established by the private sector and voluntary organizations. The Department is responsible for the registration and inspection of these programmes. The number of children placed in State-run institutions is currently 113.

Adoption

288. The court, according to the Adoption Law, Cap. 274, appoints a Welfare Officer to act as a guardian ad litem of the child upon the hearing of the application for adoption with the duty of safeguarding the interests of the child. The Welfare Officer submits a socio-economic report to the court stating whether the adoption of the particular child is recommended or not. The case is supervised by the Welfare Officer for at least three months before the preparation of the report.

289. The law regarding adoption is under review and there is pending before the House of Representative a bill for a new Adoption Law. The main innovative features of the bill are:

(a) Ecclesiastical adoption ceases to be a necessary requirement for a lawful adoption. Under the existing Law (Cap. 274 and ecclesiastical law concerning adoption), the civil court will not issue an adoption order unless an ecclesiastical adoption has been made. However, it has been noticed that the duplication of procedure creates not only delays and anxiety to the interested parties but also problems due to the intrinsic conflict between the provisions of the two sets of laws concerning adoption;

(b) The placement of minors for adoption purposes will take place either through the Governmental Agency of Social Welfare or directly by the person responsible for the case of the minor provided that he/she fulfils certain requirements. It is believed that both private initiative and government services are capable of making the proper arrangements for the adoption of minors;

(c) The Governmental Agency of Social Welfare will be informed of all adoption cases before an application for adoption is submitted to the court. It is believed that improper initial placements will thereby be avoided since an interim order can be sought and issued where it is believed that a suggested placement will have prejudicial consequences on the minor;

(d) New provisions for the protection of the adopted child when removed before an adoption order is issued and informing the adopted child about his origin and natural parents are included in the bill.

Illicit transfer and non-return

290. The Government of Cyprus does not permit the illicit transfer of children in and out of the country. Transfers are permitted only in case the children are to join their parents, a guardian or a relative. A minor cannot enter the country unless he is accompanied by a parent or guardian or relative and/or is expected by someone who can be considered responsible for the child. It should be noted that Cyprus has ratified the European Convention on Recognition and Enforcement of Decisions concerning the Custody of Children and on the Restoration of Custody of Children, by Law No. 36 of 1986. Also, the Council of Ministers of the Republic has approved the accession of the Republic to the Hague Convention on the Civil Aspects of International Child Abduction (Decision 39.284 of 12 May 1993).

Abuse and neglect, including physical and psychological recovery and social reintegration

291. Regarding the protection of children from abuse and the role of the Department of Social Welfare Services, reference has already been made in the report concerning existing legislation and measures dealing with the problem. Other measures, however, have been initiated by the State as well as the private sector and are in force to deter and combat the problem of child abuse.

292. In Cyprus, child abuse cases that come to the attention of the appropriate authorities are considered to be of a limited number. However, the considerable severity of some of them in the past 4-5 years alerted the helping professionals involved in child development and welfare who identified the need for a coordinating body and appropriate mechanisms for a uniform handling of the problem. A permanent committee for the handling of the problem of child abuse was, therefore, set up in October 1990. The goals of this Committee are mainly:

(a) To study and follow up on the development of the problem of child abuse;

(b) To study and make suggestions to the Government for the prevention as well as therapeutic handling of the problem of child abuse;

(c) To design and follow up on the mechanisms and coordinating procedures of the actions of all professionals involved with the issue of child abuse;

(d) To form and follow up the undertakings of specially set up working groups to carry out specific projects. One such specialized working group is a multidisciplinary therapeutic team consisting of various helping professionals (child psychiatrist, psychologist, paediatrician, social worker, etc.) that has been operating in the hospital to handle child abuse referrals and in particular to intervene therapeutically in the family of the victim, with the aim of preventing future occurrence of violent behaviour against the child.

293. It must be mentioned that a new law has been enacted by the House of Representatives providing for the prevention of violence in the family. The law does not aim solely at the protection of the wife but also at the protection of all members living in the same household including children, parents and other relatives. The new law empowers the court to order the removal of a child victim of violence from his house. A child is considered a victim of violence even when there is no direct violence or if it is simply a witness of repeated acts of violence committed by one member of the family against another (see also paras. 63-65).

294. A Centre for the Immediate Help of Victims of Domestic Violence is run by the Association for the Prevention and Handling of Domestic Violence (a voluntary organization). The specific aims of this programme are: the provision of immediate help in crisis situations, upon victims' request; psychological support to victims; guidance and counselling; legal advice and shelter in emergency situations. Help is mainly delivered on the telephone and sometimes through personal interviews as well. The Centre operates from 8.00 a.m. to 4.00 p.m. A need to operate the Centre on a 24-hour basis has recently been identified. The programme is partly funded by the State.

295. All placements of children are periodically reviewed. Treatment offered and goals hitherto achieved are assessed and new objectives are set. Every child's case is discussed at least once every six months for the first two years of its reception into care and accordingly thereafter. Special committees which operate locally in each District Welfare Office have been set up for this purpose.

296. Children in Cyprus in general enjoy favourable conditions of child development and survival as reflected in the following health indicators:

(a) Life expectancy at birth: males, 74.1 years; females, 78.6 years (1987-1991);

(b) Total fertility rate: 2.41 (1988-1991);

(c) Crude birth rate: 18.6/1,000 population (1991);

(d) Infant mortality rate: 11 per 1,000 live births.

Article 25 - Right to participate in public office, right to vote and right to have access to public service

297. An attempt was made to enact a law for the provision of the right to vote to those who had completed the 18th year of age. However, the constitutionality of this law was challenged before the Supreme Court which decided by consensus that the law was contrary to articles 63.1 and 179 of the Constitution (President of the Republic v. House of Representatives (1985) 3 CLR 2224). The House of Representatives invoked the doctrine of necessity for the enactment of the above law which was contrary or incompatible with any provisions of the Constitution (art. 179.2). Nevertheless, the Supreme Court did not think that the surrounding circumstances were such as to justify resort to the doctrine of necessity. Judge Mr. G. Pikis said, inter alia, that:

> "... Doctrine of necessity is a measure of self-defence for the protection of the State from the destructive consequences of the collapse of constitutional order and rules of law ... The doctrine of necessity does not provide the means to circumvent the provision of the Constitution or a way out from its limitative provisions ... Resort to the doctrine of necessity would have been justified only if the electoral body would be inactive without the participation of the new class of electors ..."

298. Another attempt to reduce the age of the electorate was made by the "First Amendment of the Constitution Law of 1986". However, this law was found to be contrary to articles 182.3, 63.1, 66.2 and 66.3 of the Constitution and could not be justified by the doctrine of necessity. According to the provisions of article 182, paragraphs (2) and (3), of the Constitution, the non-fundamental articles of the Constitution may at any time be amended by law for which a majority including at least two thirds of the number of members of Parliament belonging to the Greek community and two thirds of the number of members of Parliament belonging to the Turkish community, is required. Since no Turkish members of Parliament could participate, the enactment of any law by the majority of the two thirds of the Greek members of Parliament could only be justified by the doctrine of necessity. However, the Supreme Court concluded that the surrounding circumstances could not justify resort to the doctrine of necessity and consequently the enactment of this law without the participation of the members of Parliament of both communities.

Article 26 - Equality before the law

299. Nothing further to add.

Article 27 - Protection of minors

300. Nothing further to add.

III. CONCLUSION

301. The Republic of Cyprus is very conscious and very sensitive on matters regarding the respect of human rights, and strives continuously and consistently for the implementation of all conventions safeguarding such rights. Moreover, the acts of the Government regarding any possible violation of human rights are under close scrutiny from the courts, the House of Representatives in the exercise of its power under its standing rules and the Commissioner for Administration. Also, the mass media, with the rights they have and the privileges they enjoy under the relevant legislation, exercise constructive criticism of any acts involving maladministration or the violation of human rights by the State.

302. In preparing this report every effort has been made to include information and particulars relating to questions and issues raised during the consideration of the second report, but it may be that some of them remained unanswered either by oversight or by unforeseen delay in obtaining the required information from the appropriate departments and services. All such information and particulars will be incorporated in an addendum which shall be submitted to the Committee together with an annex containing the documents referred to in this report.